SENATE—*Tuesday, July 14, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable NANCY LANDON KASSEBAUM, a Senator from the State of Kansas.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

O God: Your justice is like rock, and Your mercy like pure flowing water. Judge and forgive us. If we have turned from you, return us to Your way; for without You we are lost people.

From brassy patriotism and blind trust in power; deliver us, O God. From public deception that weakens trust; from self-seeking in high political places; deliver us, O God. From divisions among us of class or race; from wealth that will not share, and poverty that feeds on bitterness; deliver us, O God. From neglecting rights, from overlooking the hurt, the imprisoned, and the needy among us; deliver us, O God. From lack of concern for other lands and peoples; from narrowness of national purpose; from failure to welcome the peace You promise on Earth; deliver us, O God.

We pray this in the name of Him who received all who came to Him, who responded with compassion to whatever need they suffered, who gave His life as a sacrifice of love for all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable NANCY LANDON KASSEBAUM, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mrs. KASSEBAUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. Madam President, I thank the Chair.

THE JOURNAL

Mr. BAKER. Madam President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I announced earlier that I would hope that sometime today, after we dispose of S. 1204, the noise bill, we might turn to the consideration of the cash discount bill conference report on H.R. 31.

Might I inquire of the distinguished minority leader if he would be agreeable to a request to put that conference report in place at this time?

Mr. ROBERT C. BYRD. Madam President, yes, I think it would be quite all right to do that.

Mr. BAKER. Madam President, I thank the minority leader.

CONFERENCE REPORT ON CASH DISCOUNT BILL (H.R. 31)

Madam President, I ask unanimous consent that upon the disposition of S. 1204, the noise bill, the Senate turn immediately to the consideration of the conference report on H.R. 31, the cash discount bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, will the distinguished majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Madam President, I am advised that Senator PROXMIRE is expecting to proceed with the conference report at that time and I think he wants to speak on it. So I want to say that for the record.

Mr. BAKER. I thank the minority leader. Of course, we will arrange the schedule so that Senator PROXMIRE can be present and I am sure will be present in order to speak on that subject.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. Madam President, under the order previously entered, after consulting with the minority leader, the majority leader is authorized to call up the tax bill. It is my intention to do that tomorrow. I will consult further with the minority leader during the course of this day. However, in anticipation of that action, I would like now to get orders for the convening of the Senate for the remainder of this week.

I expect that the tax bill will require our sustained and diligent effort for all of this week, including, perhaps, Saturday.

DAILY TIME OF CONVENING THROUGH MONDAY, JULY 20, 1981

Mr. BAKER. Madam President, I now ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. on tomorrow; that when the Senate completes its business on tomorrow, it stand in recess until the hour of 10 a.m. on Thursday; that when the Senate completes its business on Thursday, it stand in recess until the hour of 10 a.m. on Friday, and that, when the Senate completes its business on Friday, it stand in recess until the hour of 10 a.m. on Saturday.

Mr. ROBERT C. BYRD. Madam President, will the distinguished majority leader also get an order for Monday just in the event the Senate is in Saturday and has to go out for the lack of a quorum?

Mr. BAKER. Madam President, I am distressed even to contemplate the possibility that that would occur, but I think that is a wise precaution to take.

Madam President, I also ask unanimous consent that, when the Senate stands in recess on Saturday, it do so until the hour of 12 noon on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, might I inquire of the minority leader if he would be in a position at this time to enter an order to provide that the Senate would proceed to the consideration of House Joint Resolution 266, the tax bill, at not later than 11 a.m. tomorrow, recalling, as I am sure he does, that we now have an order for the Senate to convene at 10:30 a.m. tomorrow, and that 30 minutes intervening would provide, I believe, ample time for the recognition of the two leaders under the standing order plus other housekeeping details and arrangements that might be necessary.

If the minority leader does not wish to accede to that request at this time, I will be glad to confer with him further on the subject, but if he is prepared to do so, I am in a position to make that request at this point.

Mr. ROBERT C. BYRD. Madam President, at the moment I see no reason why we should not be able to begin debate on the tax bill at 11 a.m. tomorrow. If the majority leader would withhold that until a little later, I would like to ascertain whether or not the manager on my side of the aisle will be available at 11 o'clock tomorrow.

Second, I assume that the leader intends to put over the vote on the Johns-

ton cloture motion until after action on the tax bill.

Mr. BAKER. Yes. I am perfectly happy to withhold the request, Madam President. The minority leader is correct. I advised the Senator from Louisiana on yesterday that, in view of the fact that we should anticipate a late session on Thursday and perhaps a Saturday session, I thought we ought not to go ahead with the cloture vote on the Johnston amendment until after we have disposed with the tax bill.

The answer to the distinguished minority leader's question is yes, that is my intention. I would point out, however, that under the order entered, as soon as we dispose of the tax bill the Department of Justice authorization bill will automatically be placed before the Senate. At that time the cloture vote on the Helms-Johnston amendment would be eligible and I would assume would be laid before the Senate by the Chair.

Mr. ROBERT C. BYRD. I thank the majority leader.

FLY INFESTATION

Mr. BAKER. Madam President, I wish to take a few moments this morning to commend the Secretary of Agriculture John Block, for his responsible and expeditious efforts concerning the "Medfly" crisis in California.

If mighty oaks from tiny acorns grow, then it is also often true that enormous problems have minute origins. The distance from Washington to California does not prevent us from appreciating the dilemma that the State finds itself in. California's crops are an integral part of the Nation's food supply; if the fields in the Santa Clara Valley fell victim to insect strife, the results would be devastating for the entire country.

It is hardly Earth shattering to observe that almost no one cares for the now infamous Medfly. Not since the Killer Bee has there been a more unpopular insect. To be perfectly honest, the Medfly is a pesty little creature which does not do anyone any good, and creates a terrible time for farmers, crops, and consumers.

I cannot recall attending a reception honoring a Medfly, nor can I remember being approached by a Medfly lobbyist. They obviously have no concerns; their purpose is destructive at best.

I suggest that instead of sitting around and blaming the Peruvian Fruit Fly for not being sterile, we should support the Secretary of Agriculture in his positive steps to rid the Nation of this bizarre invasion.

I hope that the aerial spraying which begins today in Palo Alto will curtail the obnoxious and damaging path that those bantam beasts have embarked on.

ORDER OF BUSINESS

Mr. BAKER. Madam President, I have no further requirements of my time under the standing order. I am prepared to yield back the remaining time or yield it to the minority leader, if he has a requirement for the time.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I would like to have the time.

Mr. BAKER. Madam President, I assign my remaining time under the standing order to the minority leader.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum to be charged to the time which is under my control.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REVISION OF ORDER FOR RECESS

Mr. BAKER. Madam President, is there an order for the recess of the Senate at 11:30 a.m. until 1:40 p.m.?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. BAKER. Madam President, I foresee at least a possibility of a problem with that. I am going to change that order now, if the Senate will permit.

Madam President, I ask unanimous consent that, at 11:30 a.m. or at the conclusion of the time utilized by the distinguished Senator from Texas (Mr. BENTSEN) under the special order, the Senate stand in recess until the hour of 1:40 p.m.; and that if the time for the recess under this order extends beyond 11:30, the Chair recess the Senate on its own motion at the conclusion of the remarks of the Senator from Texas.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Madam President, I thank the majority leader.

Mr. BAKER. I suggest the absence of a quorum, Madam President.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Texas is recognized.

INTERNATIONAL TERRORISM

Mr. BENTSEN. Madam President, last month the Central Intelligence Agency released a research paper, Patterns of International Terrorism: 1980. The study provides compelling evidence of startling growth in international terrorist activity. I commend this paper to the attention of my colleagues in the Senate. I suggest that one of the most disturbing elements of the report is the fact that established governments are increasingly inclined to carry out deadly acts of terrorism.

Unfortunately, Madam President, U.S. citizens, American property, and our diplomatic installations abroad are the primary targets of terrorists around the world. Forty percent, or two out of every five, international terrorist incidents, are aimed at America. This country has a vital, legitimate, and undeniable interest in combatting terrorism with every means at our disposal.

In 1980, according to the CIA report, there were 287 attacks on Americans. Ninety-four of our people were wounded in these attacks, and 10 Americans were brutally murdered: 6 in El Salvador, 2 in Turkey, 1 in the Philippines, and 1 on the West Bank of the Jordan. In the course of these attacks, the property of American citizens was damaged in 97 incidents.

Especially alarming is the fact that there were 112 attacks on U.S. citizens serving abroad in various diplomatic missions during 1980. Clearly, this country is no longer prepared to look the other way when the safety of our diplomatic representatives is in such jeopardy.

Another alarming conclusion of the CIA report is that terrorist attacks are becoming more lethal and less discriminate, thereby claiming the lives of many innocent bystanders. Between 1968 when we first kept statistics, and 1972, there were 1,435 incidents of terrorism that resulted in at least one casualty. That works out to an attack with a casualty once every 3 days.

The increasingly deadly nature of international terrorism may be attributable to the fact that established governments, with the Soviet Union, Libya, and Cuba in the forefront, have turned their hand to terrorism, with an emphasis on assassination.

According to the report, the CIA files "contain almost a hundred terrorist attacks conducted directly by national governments. They occurred every year since 1972, but the majority of them took place in 1980. Almost half were assassinations or attempted assassinations. These state-sponsored attacks were more lethal than other terrorist incidents, with over 42 percent resulting in casualties."

The prime example of state-supported terrorism, Madam President, is almost certainly the seizure of our Embassy and 52 American hostages, with the support of the Government of Iran. When governments are prepared to act outside the law, when they are prepared to embrace terrorism as a weapon, law-abiding governments must be prepared to respond. The United States, as the No. 1 target

of terrorists throughout the world, has an obligation to provide leadership in the international effort to combat terrorism.

In this regard, Madam President, I would like to call attention to legislation I have drafted, the omnibus antiterrorism bill of 1981, which provides for the creation of a list of countries that support or abet international terrorism. My legislation is intended to make it clear to governments that any government engaging in terrorism can expect the United States of America to exact a price in return and respond with appropriate action.

Once it is determined that a government sanctions or engages in terrorism, the visas of students from that country studying in America would be canceled. The President could also stop or withdraw all foreign aid directed to that country and halt any pending or existing sales or guarantees related to defense materials. Current or future export licenses for commodities or technical data with military potential could also be stopped and duty-free GSP treatment could be withdrawn.

Over the years, we have seen that many terrorist attacks take place in or originate from airports lacking proper security standards. The omnibus antiterrorism bill of 1981 would require the DOT to survey foreign airport security facilities and report to Congress.

Countries with inadequate security at their airports would have 60 days in which to make necessary improvements, and DOT would be authorized to provide technical assistance on a reimbursable basis.

If the countries in question refuse to upgrade airport security, the Secretary of Transportation would have the option to decide if the cause were serious enough to withdraw operating authority for U.S. airlines to that airport.

My legislation also provides for a thorough, ongoing review of policies and programs established by our Government for dealing with terrorism. Every time an incident of terrorism occurs, the President would be charged with reporting to Congress on the adequacy of our response and any recommendations he might have for legislation to stop similar incidents in the future.

The President is also encouraged to place the highest priority on the negotiation of international agreements to assure more effective cooperation in the battle to halt terrorism. My bill would also require the President to develop standards and programs to insure full implementation of the provisions of the Montreal Convention dealing with aircraft hijacking.

I do not pretend, Madam President, that there is some simple or magical cure to the plague of terrorism. I am, however, suggesting that there is much more we can do to put terrorists and governments that support them on notice that they stand to lose much more than they gain by flaunting international codes of conduct.

The legislation I have proposed will help demonstrate to the world that the United States will not bend to the will of senseless violence and will not tolerate officially sanctioned terrorism.

I sincerely hope the Senate will take positive action on this legislation and help us send this message around the world, because it is a message consistent with the policy of the administration and with accepted principles of international conduct.

I thank the Chair, and I suggest the absence of a quorum.

Mr. BAKER. Madam President, will the Senator withhold his request for a quorum call?

Mr. BENTSEN. I will.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, it is now 11:22 a.m. There is an order for the recessing of the Senate over at 11:30 a.m.

I might say once again that the reasons for the recess are twofold:

First, there is a caucus on the part of one of the two parties in the Senate which begins at about 12 o'clock.

Second, there is another caucus and a meeting with the President of the United States beginning at 12 o'clock.

It appears that it is unlikely that the Senate would transact any meaningful business during that time and the better part of discretion would seem to suggest that we recess so that those two caucuses can occur.

RECESS UNTIL 1:40 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that the Senate stand in recess from this moment until 1:40 p.m. this afternoon.

There being no objection, the Senate, at 11:22 a.m., recessed until 1:40 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DENTON).

AMENDMENT OF NOISE CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the hour of 1:40 p.m. having arrived, the Senate will now resume consideration of S. 1204, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1204) to amend the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. There will be 20 minutes of debate overall on the Kasten amendment No. 483 to the bill to be equally divided and controlled by the Senator from Vermont (Mr. STAFFORD) and the Senator from West Virginia (Mr. RANDOLPH) or their designees, with back-to-back votes on this amendment, with final passage, to begin at 2 p.m.

AMENDMENT No. 483

Beginning on page 6, line 18, strike all through page 8, line 5, and insert in lieu thereof the following:

"MOTOR CARRIER AND MOTORCYCLE NOISE

"SEC. 18. (a)(1) Regulations of interstate motor carriers and equipment and of motorcycles and motorcycle exhaust systems in existence shall continue until specifically repealed or amended.

"(2) After the date of enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of motor carrier equipment or devices or controls and regulations establishing restrictions on motor carrier operations and activities for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be prescribed from time to time, in accordance with this subsection.

"(4) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any new regulation or revision thereof promulgated after enactment of this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to assure compliance with all standards for motor carrier equipment and operations promulgated by the Adminis-".

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, on behalf of the Senator from Vermont (Mr. STAFFORD) I yield control of the time in opposition to the amendment to the distinguished Senator from Washington (Mr. GORTON).

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. LUGAR. Will the Senator from Washington (Mr. GORTON) yield for a question?

Mr. GORTON. I yield.

Mr. LUGAR. Section 15 of S. 1204 creates a new section 18. That section would contain a section 18(a)(1) which states:

Regulations of interstate motor carriers and equipment in existence shall continue until specifically repealed or amended.

The current EPA regulations relating to the noise emitted by trucks were promulgated under the authority of section 6 of the Noise Act of 1972. This bill will repeal that section. Is it the intention of the language in new section 18 to incorporate, continue and reauthorize the EPA noise standards for the manufacture of trucks which were promulgated under prior section 6?

Mr. GORTON. Yes.

As a holdover from the debate on Friday, I believe of the time of the majority on this side that approximately 6 minutes still remain to the Senator from Wisconsin (Mr. KASTEN).

The PRESIDING OFFICER. That agreement was superseded by the present agreement.

Mr. GORTON. Under those circumstances, I will simply yield 6 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. KASTEN. During the debate on my amendment on Friday, considerable discussion concerned the scope of the already issued Federal standards for newly manufactured motorcycles, and whether the amendment would open some floodgate whereby all products sold nationwide could demand a Federal standard.

The regulations make it clear that they apply only to newly manufactured motorcycles and that the States and local authorities have the right to enact standards governing local motorcycle use.

We tried back and forth in discussions on Friday to make a difference, a point, between manufacturing standards and use standards. In no way is it our intention to affect use standards at the State or local level. The States and local authorities have the right, and they have it now, and we are not trying to change it, to enact standards governing local motorcycle use. Use includes the manner, time, and place of operation plus licensing controls. The only thing that the States and local authorities are preempted from is to establish the levels to which the motorcycles must be manufactured or sold.

That is far different from the authority that S. 1204 takes away from the States regarding railroad noise for example. The Federal standards for railroads preserved by S. 1204 are use standards. Thus, under the bill the States and local authorities will have no right to enact standards for railroads which are not identical to those Federal use standards retained by the bill.

The purpose of the administration's deregulation program and the scope of S. 1204 is to minimize the burden of regulation and reduce the cost of regulation. Retaining the already issued Federal standard for newly manufactured motorcycles will minimize that burden without diminishing the rights of the States and local authorities under present law to control local motorcycle noise problems.

No floodgate will be opened. Federal noise standards have not been issued by the EPA for lawnmowers, jackhammers, or snowmobiles or other examples that were brought up in the debate on Friday as they have, in fact, been issued on motorcycles. S. 1204 repeals section 6 of the Noise Control Act of 1972 thereby depriving the EPA of the authority to issue noise standards for additional products. So we are not opening any floodgates; we are simply retaining a standard which has already been issued at expense to the Government and the motorcycle industry.

Mr. President, I reserve the remainder of my time.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. KASTEN. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I commend the Senator from Wisconsin on his amendment, and I am pleased to join with Senator KASTEN as a cosponsor of this amendment, the purpose of which is to retain the Federal noise standard for newly manufactured motorcycles.

Passage of this amendment is essential because in its present form, S. 1204—in the name of regulatory reform—would actually increase the regulatory burden on domestic manufacturers of motorcycles, of which there is only one, Harley-Davidson. Otherwise motorcycle manufacturers might face a myriad of regulations promulgated at the State and local level, increasing costs needlessly.

I do not want to see the last domestic manufacturer of motorcycles, which has a plant in my State in York, Pa., be put at a further competitive disadvantage by Government regulations. That is the issue right here and now, and it is the provisions of the Kasten amendment which are already, I might add, reflected in the House counterpart to this legislation, which will correct this problem.

I understand, as the distinguished Senator from Wisconsin has said, that this amendment will not require any increased Federal outlays, and I urge its adoption today. I thank the Chair.

Mr. PROXMIRE. Mr. President, will the Senator from Wisconsin yield?

Mr. KASTEN. I am pleased to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, before we vote on the Kasten amendment, I want to make sure all of my colleagues understand what we are not trying to do.

We are not trying to put controls on the way motorcycles are operated. Neither do we seek to control the time of day in which they may be operated.

We are not regulating the places where they may be operated, nor the number which may be operated together.

Neither do we want to control noise emissions from the property on which the products are used, nor licensing of motorcycles, nor environmental noise levels.

All we seek with this amendment is to insure that motorcycles, as they are manufactured, in compliance with Federal standards, will be acceptable products for sale in the various States.

Thus the amendment would not disturb the right of the States and localities to enact many different kinds of standards to protect against noise pollution.

I urge my colleagues to support the Kasten amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I welcome the statement of each of the Senators from Wisconsin which, as I interpret those statements, indicate that they do not believe this amendment will restrict the right of any State to govern the noise emissions from motorcycles used within their borders.

That statement, I must say, does differ somewhat from the import of the "Dear Colleague" letter from the Senator from Wisconsin (Mr. KASTEN) and of the floor statement of the Senator from Wisconsin (Mr. PROXMIRE) on Friday, in which the States were to be left only with the ability to control noise emissions other than those for which the motorcycle was originally manufactured.

In any event, I am sure my State, and every other State, would find relatively minor impact from preemption which did not in any way restrict their right to control noise emissions from motorcycles used within their respective States.

That, however, does not much lessen the reasons for voting against this amendment. If all this amendment does is allow the manufacture and sale of motorcycles in a given State which will not be able to be operated legally on the roads of other States unless their noise emissions were reduced, it is simply useless. The State of Washington at the present time, the State of Montana, cannot conceivably regulate manufacturing operations in the State of Wisconsin or in the State of Pennsylvania.

If, however, a State can regulate noise emissions on motorcycles on its roads, it can effectively prohibit the sale of motorcycles within its borders of their own State. Under this interpretation the amendment is of no meaning and of no particular use.

The issue here is not that there will be no further preemption by the Federal noise controls over refrigerators and over air conditioners and the like. The bill itself is designed to see to it that that kind of noise regulation no longer reposes in the arms of the Federal Government and of the EPA. The real point to be debated here, the real point to which the proponents of this amendment have not addressed themselves at all, is why one single consumer product, among the millions of such products produced in the United States of America, should be subject to Federal controls and Federal preemptions when none of these other products are.

The only exemptions in S. 1204 are exemptions for the interstate commerce operations of rail carriers and motor carriers and there is simply no reason to exempt from complete State regulation a particular consumer item which probably annoys more people than any other single one.

The PRESIDING OFFICER. The Chair must note that all time allotted to the Senator from Washington has expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana for 10 minutes.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. I thank the Senator from Montana. I will complete my remarks in a shorter period of time than that.

The absence of justification for this amendment is in its very unique nature. There is simply no reason to tell States that they can control noise emissions from every other consumer product sold within their States but that they are somehow limited as to their control over noise emissions from motorcycles. This is true whether the current interpretation of the Senators from Wisconsin is correct or the earlier one is correct. We are dealing with the single item that communities and States are most likely to wish to control because of the annoyance it provides to people within those States. Of all the areas in which we should permit full and complete local control, this stands out No. 1.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator very much.

Mr. President, I rise in support of the amendment because of the undue burden which would be placed upon the manufacturers of motorcycles, some of which are located in the State of Pennsylvania, for each State to be able to put on individual noise requirements. I think, in the interest of national uniformity, this amendment would solve a very realistic problem and would not create any significant impediment on a noise problem.

Mr. President, I would like to emphasize that the retention of already promulgated noise standards for newly manufactured motorcycles, similar to those provided for trucks and railroads, is entirely consistent with the goals of S. 1204. First, such retention will not add to the Federal budget. The money has already been expended to develop the regulations, which were issued last December. Also, no Federal funds will be required after September 1981 as the Environmental Protection Agency is revising the standards so that they will be self certifying, that is, the manufacturers must provide proof of compliance.

Second, local political subdivisions will be free to solve any local noise problem at the local level through the authority to issue standards for motorcycle use. In addition, local governments and even private citizens under section 12 of the Noise Control Act have the power to bring suit against manufacturers who fail to comply with the noise standard for newly manufactured motorcycles.

Finally, the regulatory burden on motorcycle manufacturers will be less with one Federal standard than with a myriad of local rules for newly manufactured motorcycles. The motorcycle industry supports Federal regulation. It would be an immense task to design a product which would conform to a variety of rules and still be marketable nationwide. This concept has been recognized by S. 1204 for railroads and interstate carriers. The amendment offered by Mr. KASTEN affording motorcycles the same recognition should be adopted.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, in opposition to this amendment, I wish to make two or three very simple points.

First of all, we could all agree that the regulation of noise generally is a matter of local concern. It is not a matter that the Federal Government should get involved in, whether we are talking about lawnmowers, air conditioners, powerboats, snowmobiles, appliances, and also motorcycles.

I think there is something very basic about motorcycles, something essentially local about motorcycles, and I think that the American people would much rather that motorcycle noise be regulated at home, not far away in Washington, D.C.

Second, I am amused and amazed that the sponsors of this amendment would come in and ask for more Federal regulation. That is what they are doing. They want Uncle Sam and they want Washington, D.C., to regulate motorcycles. As I interpret the last election, the American people wanted less Federal regulation and they wanted more State control, more local control. I am a bit surprised, frankly, that the proponents of this amendment would come in with an amendment which asks for more Federal regulation.

Third, if by some strange reason—and it would be very strange—if by some quirk, we were to adopt this amendment, every other appliance manufacturer would come in here and ask for an exemption based upon the same reason.

It seems to me that this amendment, first, is ill conceived—it does not make sense—but, second, that we are about to adopt such a very, very pernicious precedent.

For those reasons, Mr. President, I think we should oppose this amendment. We should keep local authorities in control of local noise and not let Uncle Sam and the Federal Government—Washington, D.C.—get involved in the regulation of local noise.

We have two exemptions, the motor carriers and the railroads, which, by their very nature, are interstate in their operation. Motorcycles do not often cross State lines. Once in a while they will, I grant you. But so do powerboats once in a while cross State lines. The motorcycles are essentially a local concern and they should be regulated by State and by local areas, not by the Federal Government.

Mr. STAFFORD. Mr. President, will the distinguished Senator yield me a couple of minutes?

Mr. BAUCUS. Mr. President, I am delighted to yield 2 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, first let me say that the Senator from Vermont not only likes motorcycles but owns one and rides it, notwithstanding his wife's occasional admonitions. But I do believe that the States ought to determine how much noise they make, and the one I have is a quiet motorcycle.

Mr. President, I with regret, will vote against the Kasten amendment and hope that my colleagues will do the same. I say this for the following reasons:

First, although I have the utmost respect for the Senator from Wisconsin, I believe his amendment goes beyond what he believes. His amendment would, in fact, do more for the motorcycle industry than the committee bill does for the interstate railroad and motor carrier industries. Because interstate rail and motor carriers transport goods from State to State, the committee bill permits a Federal noise regulatory program to continue for them. But this program is discretionary. The Administrator of the Environmental Protection Agency may choose to exercise it and she may choose not to exercise it.

As the distinguished colleague, Senator BAUCUS, has said, Senator KASTEN's amendment, however, mandates a Federal regulatory program for motorcycles. The Administrator would have no choice. This Senator cannot support such a mandatory requirement, nor can the current administration. I would quote the administration's position on S. 1204 and possible amendments to it. These views are contained in a letter dated July 10, 1981:

> We initially proposed elimination of the noise regulatory program, but consider the limited authorities of S. 1204 acceptable. However, we would oppose expansion of the regulatory scope of S. 1204 or the reduction of discretion in its implementation by the Administrator of EPA.

The Kasten amendment proposes to not only expand the regulatory program but to reduce the Administrator's discretion, both of which are objectionable to the administration of President Reagan. Even if that were not the case, however, I would urge my colleagues to reject the proposal.

The sponsors of this proposal are seeking to protect the last remaining manufacturer of motorcycles. I can understand why they are doing this. But forcing the Federal Government into a program of protective regulation for an entire industry and tying the hands of the States is not the way to do it.

States have a legitimate interest here, and there is no good reason for the Federal Government to infringe on their rights. The suggestion that the system of State control which was livable 10 years ago has for some reason become unlivable today, makes no sense and should be rejected. The way to reject it is to vote against Senator KASTEN's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have no request for time on my side and understand that time on the other side has already expired. That being the case, I yield back the remainder of my time and I am prepared, if it is not contrary to the agreement, to vote on the amendment.

The PRESIDING OFFICER. The vote is scheduled to occur at 2 o'clock, and we have about 1 minute.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I yield any time allotted to me by the Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. Without objection, the quorum call is dispensed with, but all time on the amendment has expired and we are to vote at 2 o'clock.

Mr. RANDOLPH. Mr. President, I certainly want to be within the rules. We have been in the Democratic Conference, and I thought I was arriving here before 2. But I can well understand. Of course, I shall vote against the Kasten amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered. The clerk will call the role.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—40

Andrews	Glenn	Percy
Bentsen	Hawkins	Pressler
Boren	Heflin	Proxmire
Boschwitz	Heinz	Pryor
Bumpers	Helms	Riegle
Burdick	Huddleston	Sasser
Cannon	Kassebaum	Schmitt
Cochran	Kasten	Specter
D'Amato	Long	Stevens
DeConcini	Matsunaga	Tower
Dodd	Mattingly	Williams
East	McClure	Zorinsky
Exon	Murkowski	
Ford	Pell	

NAYS—55

Abdnor	Garn	Mitchell
Baker	Gorton	Moynihan
Baucus	Grassley	Nickles
Biden	Hatch	Nunn
Bradley	Hatfield	Packwood
Byrd, Harry F., Jr.	Hollings	Quayle
Byrd, Robert C.	Humphrey	Randolph
Chafee	Inouye	Roth
Chiles	Jackson	Rudman
Cohen	Jepsen	Sarbanes
Cranston	Johnston	Simpson
Danforth	Kennedy	Stafford
Denton	Lavalt	Stennis
Dixon	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Melcher	Weicker
	Metzenbaum	

NOT VOTING—5

Armstrong	Hart	Tsongas
Goldwater	Hayakawa	

So the amendment of the Senator from Wisconsin (No. 483) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on final passage. Without objection, the bill is passed.

The text of the bill (S. 1204) is as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Noise Control Act of 1972 is amended as follows:

(1) Sections 6 and 8 are hereby repealed.

(2) Section 1 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Quiet Comunities Act'.".

(3) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows, through the period at the end thereof and substituting: "promote effective State and local programs and provide Federal research, demonstration, planning, technical, and other assistance for such programs.".

(4) Section 2(b) is amended by striking "to authorize the establishment of Federal noise emission standards for products distributed in commerce, and", changing the period at the end of said sentence to a comma and adding "and to assure that railroad and motor carrier equipment and operational noise emissions are controlled adequately by either State or Federal regulation.".

(5) Section 3(2) is amended by striking out "sections 11(e) and" and substituting "section".

(6) Section 3 is amended by striking paragraphs (3) through (8).

(7) The second sentence of section 4(b) is amended by striking "6," and ", other than for those products referred to in section 3(3)(B) of this Act".

(8) Section 12(f) is amended by striking out "paragraph" and all that follows down through "section 611" and substituting "a standard, rule, or regulation under section 17 or 18 of this Act or section 611".

(9) Section 10 is amended by striking subsections (a) and (b) and substituting the following: "The failure or refusal of any person to comply with any requirement of regulations prescribed under sections 13, 17, or 18 is prohibited.".

(10) Section 11 is amended by—

in subsection (a), striking "paragraphs (1), (3), (5), or (6) of subsection (a) of" each place it appears;

in subsection (b) striking "any paragraph of section 10(a)" and substituting "section 10" each place it appears;

in subsections (c) and (d), striking "10(a)" and substituting "10".

(11) Section 18(a) is amended by striking "6 or section 8" and substituting "17 or section 18".

(12) Section 14(b)(2) is amended by striking "subject to possible regulation under sections 6, 7, and 8 of this Act".

(13) Section 16(a) is amended by striking "6, 17, or 18 of this Act or any labeling regulation under section 8" and substituting "17 or 18".

(14) Section 17 is repealed, and the following new section enacted in lieu thereof:

"RAILROAD NOISE

"SEC. 17. (a)(1) Regulations of interstate railroads and equipment in existence shall continue until specifically repealed or amended.

"(2) After the enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of rail equipment or devices or controls and regulations establishing restrictions on interstate railroad operations and activities along specific rail lines or specific centers of activity, including, but not limited to, switching and marshaling yards, for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction available through the application of best available technology, taking into account the costs of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

"(4) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to assure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of the powers and duties of enforcement and inspection authorized by the Safety Appliances Acts, the Interstate Commerce Act, and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

"(c)(1) Nothing in this section shall diminish the right of a State or political subdivision thereof to establish and enforce standards, controls, limits, restrictions, or other requirements on environmental noise, including those from rail equipment and operations, in the absence of a Federal requirement pursuant to this section, or a Federal decision that no Federal, State, or local requirement is appropriate, on a specific class of equipment or operations.

"(2) Nothing contained herein shall preclude a State or political subdivision thereof from adopting and enforcing a Federal standard, control, limit, restriction, or other requirement promulgated under this section.

"(3) Any person adversely affected by a State or local requirement, or the Administrator, may demonstrate by a preponderance of the evidence the existence of conflict between the requirement of a State or political subdivision thereof and that of the Federal Government.

"(d) The terms 'carrier' and 'railroad' as used in this section shall have the same meaning as such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22).".

(15) Section 18 is hereby repealed and the following new section enacted in lieu thereof:

"MOTOR CARRIER NOISE

"SEC. 18. (a)(1) Regulations of interstate motor carriers and equipment in existence shall continue until specifically repealed or amended.

"(2) After the date of enactment of this section, the Administrator may promulgate additional regulations establishing standards and requirements for the design, construction, and maintenance of motor carrier equipment or devices or controls and regulations establishing restrictions on motor carrier operations and activities for the purpose of minimizing or eliminating the environmental noise emissions from such equipment or activities. Such standards, controls, limits, requirements, or regulations, if any, shall reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance.

"(3) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 16 of this Act, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

"(4) Any standard or regulations, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

"(5) Any new regulation or revision thereof promulgated after enactment of this section shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration the cost of compliance within such period.

"(b) The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to assure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of the powers and duties of enforcement and inspection authorized by the Interstate Commerce Act and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 10, 11, 12, and 16 of this Act.

"(c)(1) Nothing in this section shall diminish the right of a State or political subdivision thereof to establish and enforce standards, controls, limits, restrictions, or other requirements on environmental noise, including those from motor carrier equipment and operations, in the absence of a Federal requirement pursuant to this section, or a Federal decision that no Federal, State, or local requirement is appropriate, on a specific class of equipment or operations.

"(2) Nothing contained herein shall preclude a State or political subdivision thereof from adopting and enforcing a Federal standard, control, limit, restrictions, or other requirement promulgated under this section.

"(3) Any person adversely affected by a State or local requirement, or the Administrator, may demonstrate by a preponderance of the evidence the existence of an inconsistency between the requirement of a State or political subdivision thereof and that of the Federal Government.

"(d) For purposes of this section, the term 'motor carrier' includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined by paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)).".

(16) Section 19 of the Noise Control Act of 1912 is amended by striking out "$15,000-000 for the fiscal year ending September 30, 1979" and substituting "$3,300,000 for fiscal year 1982".

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I wish to express for the record my hope that, in the future, on a bill that is not otherwise cleared for passage by unanimous consent, the Chair will not state, upon final passage, "Without objection, the bill is passed."

I believe that Senators should have an opportunity, if they wish, to demand a rollcall vote. I presume they did not in this instance. Someone, at the very last second, may wish a rollcall vote on a bill, and I hope the Chair will give Senators the opportunity to ask for a rollcall vote.

There was a rollcall vote on the amendment, so it was not a minor bill. It was not a bill that was cleared for passage by unanimous consent. It had some controversy involved.

I do not say this with any criticism of the Chair. I know that the Chair acted in good faith.

In any event, I believe I should say this for the record, so that Senators, especially on a vote on which there is not much controversy, may ask for a voice vote on final passage, so that Senators, if they wish to have a division or if they wish to have a rollcall vote, may demand it.

However, when the Chair says, "Without objection, the bill is passed," it is over.

I say this with apologies to the Chair, because, certainly, no rancor is intended. However, I believe that if someone does not say it for the record now, it could create quite a controversy at some time in the future.

Mr. LONG. Mr. President, will the distinguished minority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I agree with the distinguished minority leader in this matter.

I know that the Chair was acting in good faith about this. However, sometimes Members are not present who would vote against a measure, and other times Senators are present who would vote against it. Since they did not see any point in insisting on a rollcall vote, they should be spared having to demand the yeas and nays in order to make clear that the bill was not passed unanimously.

So I believe that the minority leader is right about this. I hope the Parliamentarian will take due note and so advise the Chair.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Louisiana.

CASH DISCOUNT ACT—CONFERENCE REPORT

Mr. GARN. Mr. President, I submit a report of the committee of conference on H.R. 31 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 23, 1981.)

Mr. GARN. Mr. President, I request that my colleagues act immediately to accept the conference report on the Cash Discount Act. The provisions of this report are exactly those that were passed by voice vote in the Senate on March 12, 1981. After much delay, the House conferees have receded to the entire content of the Senate amendment to H.R. 31. On June 24, 1981, the House adopted the conference report by a vote of 398 to 9.

The extensive delays in the conference on this bill have been the result of the bifurcated nature of H.R. 31. The bill contains not only the provisions which deregulate cash discounts and extend the prohibition against surcharges until February 27, 1984, but also has an unrelated provision regarding certain specifications for the unrelated provision regarding certain specifications for the position of the Surgeon General of the United States. Because of the dual issues in this bill, conferees were appointed from both the Banking and Labor Committees, and were instructed to confer on only the issues within their respective jurisdictions.

Shortly after the conferees were appointed, the banking conferees met and the House receded to the provisions of the Senate amendment. Then we were forced to sit and wait for the conferees on the Surgeon General provision to resolve that issue. Close to 2 months passed before the House receded to the Senate on that remaining section of the bill.

Mr. President, I wish to tell my colleagues that I have never been involved in a conference with less controversy and as little debate as the conference on the banking provisions of this bill. I had no more than sat down at the conference table than the distinguished Congressman from Illinois, Mr. ANNUNZIO, made a motion to concur in the Senate amendment. It was readily accepted and we adjourned within less than 5 minutes of convening the conference. The expeditious fashion with which the banking conferees were able to dispense with our issue, is proof of the undisputed support for the provisions of this bill.

Since action on this bill should have taken place prior to February 27, so that the previous prohibition on surcharges would not have expired. I encourage the Senate to act without delay in agreeing to the conference report.

Mr. PROXMIRE addressed the Chair.

Mr. GARN. Mr. President, may we have order before the distinguished Senator from Wisconsin speaks?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROXMIRE. Mr. President, I oppose the conference report.

I believe that the Republican Party in the Senate and in the country deserves full credit for taking the strong position they have taken against excessive regulations. There is no question that this has caused a great burden on business and on consumers. But I am amazed that in its first legislative opportunity to strike a blow for deregulation, the administration has opted for more regulation.

All of us gain if we rely more on the freedom of the marketplace and less on the heavy hand of Government. Business will be more efficient and resources will be better allocated.

But here we have the spectacle of our new majority following through on a bill calling for increased restrictions—I repeat, increased restrictions, and that is what this bill does in the conference report—of the private enterprise system as one of the first orders of business when we come to regulatory matters before us.

Mr. President, the No. 1 domestic problem facing this country—and, I think the President is absolutely right—is inflation. One of the reasons why inflation is so serious is because there has been far too much borrowing and too little cash payment in this country by the Federal Government and in the private sector.

We are correct to criticize the Federal Government's excessive borrowing and spending. I think the Federal Government has to reduce its borrowings, has to run surpluses instead of deficits, has to stop bidding up interest rates.

Mr. President, we have a conference report on a bill here today which would continue to discourage people from paying cash and to encourage them to borrow on credit.

The Federal Government is a big factor. It is about a quarter of our economy. But almost two-thirds of our economy is in the private sector. If we are going to follow a policy of supporting regulations which discourage the payment of cash and encourage borrowing money, encourage driving up interest rates, encourage inflation by excessive credit, it seems to me we are following a most unwise course, economically, and a course which is not in the interest of consumers, a course which particularly contradicts the very essence of the position the Republicans have properly taken, that it is time we emphasized free enterprise.

This legislation is opposed by consumer groups, business groups, and free enterprise groups. I do not know any consumer group, not one, which has taken the position that this regulation is in the consumer interest. These consumer groups are ably staffed. They have won the admiration of us. We may disagree, but they won our admiration on the basis of their competence.

They say that consumers will be ill served if we pass this bill restricting the credit surcharges, that it will be against the interest of the consumer and it will mean that the consumer will have to pay more when he pays cash.

This legislation is opposed by the retail merchants, merchants such as Montgomery Ward and Zayre's. These merchants are on the line with consumers every day. They run the big discount houses. They feel they can give consumers a better break and increase sales if they stop subsidizing credit purchases and offer cash customers higher discounts.

This legislation is also opposed by free enterprise groups such as the National Taxpayers Union, the Council for a Competitive Economy and the Heritage Foundation, all of whom oppose continued regulation of surcharges.

According to the title this bill is concerned with cash discounts. Let us not kid ourselves.

Make no mistake about it, the heart and soul of this legislation is the demand of the credit card industry that the Congress extend the ban on credit card surcharges for another 3 years.

Talk about a special interest group. Last year, the credit card industry charged merchants $1.5 billion. Why did they get that from merchants? They got it because when people went in to use their credit cards the merchants, in turn, would be billed by the credit card company for the interest and the cost of processing that credit transaction.

Of course, the credit card companies enjoy very much getting that $1.5 billion, but does anybody really believe that that $1.5 billion did not result in higher prices for the merchandise that all of us buy? Of course, it did. It is translated simply into higher prices. That is why the consumer organizations unanimously, without exception, emphatically oppose the bill in its present form.

It is why they feel that merchants should be free. That is all we are asking. We are not asking that this be imposed. We are saying let the free enterprise system work. Why not let the merchants be free to make a surcharge if they wish to do so? What is wrong with free enterprise, Mr. President?

Back in 1975, the lines of battle on the surcharge question were far less clearly drawn. By a 4-to-3 vote, the Governors of the Federal Reserve Board came down in favor of the ban on surcharges. The Consumer Federation of America also opposed credit card surcharges at that time. The Consumer Affairs Subcommittee heard testimony from the Federal Reserve Board, the Consumer Federation of America, the Federal Trade Commission, the Comptroller of the Currency, and Consumers Union calling for an end to this unnecessary restriction of the free market system.

So not only do we have all the consumer organizations, not only do we have all the free enterprise organizations, every responsible, competent Government agency that has studied the situation and testified, testified that we should remove that ban. That is what this amendment does. They are unanimously for it. There is no competent testimony that does not have a clear special interest, such as the credit card companies themselves, that opposes this amendment.

On the other side of the coin, the credit card industry claims that the Government restriction of surcharges is somehow in the public interest.

Frankly, when we first began the debate on surcharges in 1974, I had no idea how inflationary the hidden merchant discount fees might become. For example the domestic operations of the three

major credit card issuers—Visa, Master Charge, and American Express—collectively earned in excess of $1.5 billion from these hidden fees in 1980 alone.

After listening to literally hundreds of bankers testify before the Banking Committee that every law and regulation eventually results in additional costs which are always passed along to consumers, there is certainly no doubt in my mind that the $1.5 billion hidden fee was likewise passed along to all consumers in the form of higher prices for goods and services. Nor, I might add, does there seem to be any doubt on the part of the Federal Reserve Board that these hidden fees are buried in the regular prices of goods and services of merchants who accept credit cards.

Of course, they are. We were not born yesterday. We know there is no way the merchants can assume this. They are going to go out of business if they do not pass along their costs. They have to. It is the first thing you learn in cost accounting. Every merchant who has enough sense to come in out of the rain is going to require that his costs be covered in the price he charges. They do that.

There is nothing wrong in that. It is proper, it is desirable, it is necessary. And they pass along that cost.

Unfortunately for cash purchasers, merchants have no way of knowing which customers will pay by cash and which will pay by credit card. Consequently, merchants must bury the $1.5 billion merchant fee in their regular price, with the result that both cash and credit card customers alike must shoulder this hidden fee.

Even if we conservatively assume that cash customers wind up paying only one-third of the merchant fee, that still amounted to a $500 million subsidy of credit card purchasers by cash customers in 1980.

Finally, let me say this to my Republican colleagues. If this conference report is adopted and is sent to the White House for signature it will be an embarrassment to President Reagan who speaks so eloquently of free enterprise.

The administration and the new majority have not put their money where their mouths are on this legislation.

Mr. GARN. Mr. President, I am not aware that anyone else desires to speak on this issue. As I said, it passed the Senate overwhelmingly, and also the House of Representatives, and it was debated at that time.

If there is no one else who desires to speak, I am also unaware of any request for a rollcall vote, and I am prepared to vote by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and asks for a division. All those in favor will stand and be counted.

(Senators rising.)

The PRESIDING OFFICER. All those opposed will stand and be counted.

(Senators rising.)

The PRESIDING OFFICER. The ayes appear to have it, the ayes have it, and the conference report is agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, is there an order for the next item of business?

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. The clerk will report the pending business and will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

The Senate resumed consideration of the bill.

SENATE RESOLUTION ON SOCIAL SECURITY

Mr. BAKER. Mr. President, it is my hope that this afternoon we can turn to the consideration of the sense-of-the-Senate resolution in respect to social security which I identified on yesterday.

Negotiations have been under way with the hope that we can obtain a time agreement on that measure. I think the prospects are good that we can. But for the moment we are not prepared to proceed. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 87

Mr. BAKER. Mr. President, as I indicated earlier, there is a desire on the part of some Members to proceed to the consideration of Calendar Order No. 167, Senate Resolution 87, a sense-of-the-Senate resolution expressing concern regarding social security benefits.

I understand that all parties to that measure will be ready to proceed to the consideration of that resolution at 4 o'clock this afternoon. I have a time agreement that I am about to propound, Mr. President, with respect to the consideration of that measure that I believe has been cleared on the minority side.

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar Order No. 167, Senate Resolution 87, a resolution expressing the sense of the Senate regarding social security benefits, it be considered under the following time agreement:

One hour total time of debate on the resolution, to be equally divided between the distinguished Senator from Pennsylvania, Mr. HEINZ, and the distinguished minority leader or his designee, with the proviso that no motions, amendments, appeals, or points of order be in order to the resolution and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. and that when it reconvenes at 4 p.m. the Chair lay before the Senate, Senate Resolution 87 under the terms and the provisions of the order just entered.

There being no objection, the Senate, at 2:44 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DANFORTH).

QUORUM CALL

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Missouri, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAXATION OF SOCIAL SECURITY BENEFITS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 87, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 87) expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits, and for other purposes.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Finance, with amendments, as follows:

On page 2, line 4, strike "the", and insert "their"; and

On page 2, line 4, strike "of American workers".

The cosponsors of the resolution are:

Mr. Heinz, for himself, Mr. Chiles, Mr. Proxmire, Mr. Grassley, Mr. Pressler, Mr. Cohen, Mr. Percy, Mr. Melcher, Mr. Pryor, Mr. Glenn, Mr. Burdick, Mr. Bradley, Mr. Dodd, Mr. Packwood, Mr. Dole, Mr. Cannon, Mr. Williams, Mr. Moynihan, Mr. Mitchell, Mr. Sasser, Mr. Garn, Mr. Levin, Mr. Sarbanes, Mr. Roth, Mr. Simpson, Mr. Symms, Mr. Harry F. Byrd, Jr., Mr. Matsunaga, Mr. Bentsen, Mr. Riegle, Mr. Zorinsky, Mr. DeConcini, Mr. Goldwater, Mr. Bumpers, Mr. Randolph, Mr. Kennedy, Mrs. Hawkins, Mr. Weicker, Mr. Thurmond, Mr. Warner, and Mr. Robert C. Byrd.

Mr. HEINZ. Mr. President, it is my understanding that a time agreement has been entered into on this measure; that the time limitation is to be 1 hour, evenly divided between me and the minority manager of the bill, Senator MOYNIHAN. Will the Chair advise me if that is correct?

The PRESIDING OFFICER. The Senator is correct. The time is controlled by the Senator from Pennsylvania and the designee of the minority leader.

Mr. HEINZ. I thank the Chair.

Mr. President, the resolution before the Senate, Senate Resolution 87, has numerous cosponsors, including the following three cosponsors whose names I ask unanimous consent be added: The Senator from Massachusetts (Mr. KENNEDY), the Senator from Florida (Mrs. HAWKINS), and the Senator from Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I submitted this resolution last March, and its purpose is, very simply, that of opposing the taxation of social security benefits.

When I submitted the resolution, in my remarks on the floor I referred to the continuing fear of social security recipients that their benefits will suddenly be subject to taxation. I also said that action on the resolution was needed to reassure those citizens that they would not face a sudden, unexpected loss of income.

Mr. President, since that time, older Americans have been bombarded on a daily basis, verbally and in print, with proposals that make sweeping, drastic changes in the social security system, changes far beyond taxation, which are causing a crisis of confidence, among our retired citizens and those who are about to retire, about our social security system.

I believe that today the Senate has an opportunity—at least, partially so—to allay those fears by strongly supporting Senate Resolution 87, by expressing the sense of the Senate that the 97th Congress will not enact legislation which would change the tax treatment of social security benefits. I urge my colleagues on both sides of the aisle, on a strong bipartisan basis—this should not be a partisan issue—to vote in favor of the resolution.

Mr. President, for many older Americans in every State, retirement income is less than adequate to meet the costs of basic necessities. That was true when we started the social security system more than 40 years ago. Regrettably, it is still true today.

The fact is that there are millions of elderly people who are struggling to keep up with inflation. Prices for food, utilities, fuel, and medical care have increased faster than the Consumer Price Index. Despite the indexing of social security benefits, the overall incomes of the elderly have not kept pace with inflation. Taking away in taxation what already has been given in benefits that have not kept up is, of course, a reduction of benefits, however we might try to disguise it.

Any decision to tax social security benefits would be grossly unfair to those who have planned their retirement with the expectation of a tax-free social security benefit.

Those already retired and people who are about to retire do not have the opportunity to change their future plans. They have already planned, and taxing their social security benefits would be pulling the rug right out from under them. It would be shredding their plan. It would be a human disaster.

We must not lose sight of the fact that social security is a vital source of income for older Americans. Over 90 percent of the families headed by an older person depend upon social security for at least a portion of their income and for two-thirds of those families social security is their major source of income.

Mr. President, our citizens are already burdened enough by heavy taxes. At the time when we are seeking to alleviate some of this tax burden, it is unwise and it is wholly inconsistent to increase taxes for those on limited incomes.

The elderly, even without taxes on social security, pay a substantial portion as it is of the total Federal income taxes collected by the Internal Revenue Service. Persons over age 65 who constitute about 11 percent of the total population pay 10 percent of all personal income taxes.

Social security, Mr. President, is the cornerstone of our Nation's retirement system. It is a system that has worked. It has worked well. It has worked well for more than 40 years.

While Congress can and must act now to restore fiscal stability to the program, and I trust we will do so this year, to spare people any further anxiety, taxation of benefits is not the solution. It is not the answer, as some would have us believe, to the problems of social security.

So, Mr. President, it is my view that approval by the Senate today of Senate resolution 87, the measure before us, will be proof to the Nation's elderly that we strongly support the past commitment that we reaffirm in today's present to their economic security and well being.

Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from Pennsylvania. On behalf of the Democratic cosponsors of Senate Resolution 87 I rise to express solidarity with the views that the Senater from Pennsylvania has stated and to add simply to a position that the Democratic Members of this body have sustained through the nearly half-century since passage of the Social Security Act. This resolution to express our opposition to taxing social security benefits is particularly timely and particularly important at a moment when there has been in our view an unfortunate and unnecessary effort on the part of some members of the administration to suggest that the social security system is in some grave crisis that will require extraordinary reductions in benefits from persons entering the system.

On the 12th of May the administration proposed that for persons entering the system as of January 1 benefits be reduced 10 percent across the board. For persons retiring at 62, when the majority of persons do retire, that the overall reductions be 40 percent, leaving such persons who have no other income with an average retirement benefit that is 19 percent of their average earnings in years when paying into the social security system. This is a benefit that would keep them permanently below the Government's poverty line and would indeed leave them impoverished.

I think it important to recognize just how many people, as the Senator from Pennsylvania has said, depend utterly on social security. According to a 1976 study by the Department of Health, Education, and Welfare (as it was then called) 57 percent of the persons retiring at age 62 are ill. The evidence from the one survey taken in 1977 would have us understand that a majority of those persons have at the time of their retirement no other income. Some of them are unemployed. Many of them are ill. They entered a system which provides a source of income for when they will have none. I think it is clear that this body will not accept the administration proposals. Throughout the country there has has been a tremor of concern, particularly among older persons who do not follow the specifics and the details of the actuarial estimates of what will be the ratio of beneficiaries to contributors in the middle third of the 21st century.

All they hear, as they heard from Mr. Svahn on July 6, is "crisis, crisis, bankruptcy, crisis, crisis," four crises in 2 pages of a press statement.

The persons in the system now have the right to know that their benefits are secured and will not be reduced and will not be taxed.

It is certainly the view on this side of the aisle that this will not happen and I am happy to see the degree to which this is shared on both sides of the aisle. I wish to state our complete support for this resolution at this time.

Mr. HEINZ. Mr. President, I compliment and thank my distinguished colleague from New York, Senator MOYNIHAN, for his comments on behalf of this resolution.

He was one of the Senators who joined with me very early on when I introduced this legislation in the first place.

He, as a member of the Finance Committee, has taken a special interest in the problems of our social security system, and I publicly recognize his efforts and thank him for his remarks.

Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I support Senate Resolution 87, a resolution reaffirming the sense of the Senate that social security benefits should continue to be exempt from taxation.

In recent weeks we have all been made painfully aware that the economic viability of the social security system is severely threatened. There is very little dispute that the Congress must act immediately and responsibly in order to insure that the Nation's oldest and most popular social program is not allowed to

drift into the throes of bankruptcy. While the task will be difficult, we have no choice but to address the problem. The most irresponsible course of action would be to simply turn our back to the problem and do nothing.

While we face a number of difficult choices for restoring health to the social security system, I do not believe that the taxation of social security benefits is necessary in order to solve our immediate short-term financing problems. As a cosponsor of this resolution, and as a supporter of the social security system, I do not believe the wise choice will be to place further tax burdens on our older Americans, who already pay 10 percent of all personal income taxes and who are the hardest hit by inflation.

Older Americans on fixed incomes, nearly two-thirds of whom try to make ends meet on social security as their major source of income, cannot tolerate further taxation. Time after time, in hearing after hearing, and in letter after letter, I have heard from the elderly residents of my State and across the country that inflation, energy costs, and spiraling interest rates threaten their daily security. For some, nearly half of their income is devoted to necessities. Can we really afford to tax the hardest hit segment of our population further?

I believe the answer to that question is an unequivocal no. As a member of the Senate Special Committee on Aging, I am pleased that hearings have been held, witnesses have been heard, and suggestions have been considered for reforming the social security system. To my knowledge, no one has recommended the taxation of social security benefits as a method of relieving the system of its financial problems.

The American public deserves our reassurance that we will follow the wisest course of action possible, and that social security benefits will not be rashly and immediately cut by exposure to further taxation.

Mr. THURMOND. Mr. President, today I am pleased to rise, as a cosponsor, to support Senate Resolution 87, which expresses the sense of the Senate that social security benefits should not be subject to Federal income taxes. This resolution could not be considered at a more opportune time.

As Congress nears completion of its annual budget process, it is imperative that those Americans who now depend on social security be assured that we here in the Senate are sensitive to their needs. People who have retired are the people who deserve the security this system offers. They have worked hard to help make this country great, and they have contributed financially to the retirement system. Now, they have a reasonable expectation of receiving this retirement income. We have a solemn duty to insure that every effort is made to protect these retirement benefits.

Just as we owe these retired Americans our diligence in guarding their individual benefits, we owe them the greater duty of protecting the whole system. The social security system must remain sound. It is not enough that social security retirement checks be sent next month; they must be available next year and the years after that. We in Congress must take every step necessary to insure that the retirement system remains fiscally sound, no matter what the political cost.

Mr. President, I believe that this resolution is one sign of our dedication to protecting those who rely on social security. For those who believe that the Federal Government only has their best interests at heart, an attempt to tax social security benefits is a rude awakening. As we now reap the results of the excesses of past administrations and Congresses in both entitlements and a slowed economy, the dollar has weakened to the point that many of our elderly citizens are losing their fight against the ravages of inflation. On top of this, there are those who would further diminish the finances of these Americans by subjecting their social security income to Federal taxation.

Last year, I joined with Senator JEPSEN and others to oppose this proposal. I am glad that the full Senate now has the opportunity to indicate its strong opposition to such taxation. This resolution should indicate our commitment to the social security system—both in protecting the benefits of currently retired Americans and in insuring the long-term existence of the system. We must act to insure the soundness of the social security system. The situation demands it, and Americans deserve no less.

DO NOT TAX SOCIAL SECURITY BENEFITS

Mr. CHILES. Mr. President, I rise in support of Senate Resolution 87 expressing the sense of the Senate that social security benefits should not be subject to Federal taxation.

Senator HEINZ and I, as chairman and ranking minority member of the Special Committee on Aging, introduced this resolution along with many of our colleagues on March 5. I am pleased that the Finance Committee has taken such timely action on the resolution, and I urge all of my colleagues here today to vote favorably on the resolution.

During the past few weeks, millions of social security beneficiaries all across the Nation have had nothing but bad news about social security. They have heard that the trust funds are going broke and that their checks may stop coming or be delayed. Many older Americans are afraid. They have heard all the bad news—and I think it is unfortunate that they have not gotten much reassurance from us here in Congress.

This is a good time to remind all social security beneficiaries that we have already gone on record—with a 96-to-0 vote—that we will not make changes to social security any more than is absolutely necessary to make sure that the checks keep coming on time. And it is a good time to point out that we have already taken some action in the budget reconciliation bill which will help make sure that social security checks will not stop and will not be delayed.

This resolution gives us another opportunity to reassure social security beneficiaries that we will not be making cuts any more than is necessary to insure the solvency of the system. Taxing social security benefits is not necessary.

I do not think my colleagues need to be talked into voting favorably on this resolution, because I think you agree with me. But I would like to point out that we will soon be taking up a tax cut bill in the Senate. We certainly do not want to be telling social security beneficiaries that we are going to ask for additional taxes from them at the same time we are cutting taxes for everyone else.

Taxing social security benefits is not even part of the answer to solving social security's problems. Social security beneficiaries need all the reassurance we can give them now, and this resolution can help give them that reassurance.

Mr. BURDICK. Mr. President, during a period of some confusion in the country as to the strength of the Federal Government's commitment to the social security system, the Senate has an opportunity today to send a clear message to older Americans: There will be no taxation of social security benefits approved by this Congress.

At a time when those dependent on social security are justifiably concerned about what changes in the program will be approved by Congress in the effort to restore it to short-term and long-term financial solvency, we can at least make it clear that the designation of social security benefits as taxable income is not one of the changes being contemplated.

This sense of the Senate resolution was introduced in March in response to a recommendation by the President's Commission on Pension Policy that social security receive the same tax treatment as other retirement programs. Since then, with both the House and Senate including elimination of the minimum social security benefit in their budget reconciliation bills and long-terms cuts in benefits being considered by the appropriate committees, it has become even more apparent that taxation of social security benefits is an economic blow that millions of older Americans should not be asked to sustain.

It is estimated that the average annual tax increase for households receiving social security benefits would be $350. The deduction of that amount of money from the disposable income of those whose only income is derived from social security benefits could make a significant difference in their ability to purchase such necessities of life as food, medicine, and clothing.

Congress faces a number of difficult decisions in its deliberations on reform of the social security system, but the vote on this resolution is not one of them. Just as the Senate voted unanimously on May 20 to reject any precipitous and unfair reduction in early retirement benefits, so today we can act to assure social security recipients that they need not worry about taxation of their benefits. I urge the Senate to give its overwhelming approval to this important resolution.

SOCIAL SECURITY BENEFITS SHOULD NOT BE TAXED

● Mr. JEPSEN. Mr. President, I rise in support of the resolution offered by my distinguished colleague from Pennsylvania (Mr. HEINZ). I must say, however, that I do so reluctantly. Not because I do not agree with the intent of the res-

olution, but rather because I do not think it goes far enough. I believe the simplest and most straightforward thing to do would be to spell out our sentiments in law. A Senate resolution is not enough.

Contrary to conventional wisdom, public law does not provide for the tax-exempt status of social security benefits. It enjoys the much weaker and more uncertain protection of an Internal Revenue Service ruling, dating from 1941. This raises the frightening possibility that benefits could become subject to Federal income tax at any time and without the prior approval of any legislative body. This resolution would not prevent this.

In 1979 the Advisory Council on Social Security published an opinion that the 1941 IRS ruling was inequitable and argued for taxation of half of social security benefits. A recent book by Mickey Levy, "The Tax Treatment of Social Security," and a series of articles in leading publications have adopted similar positions.

Several months ago, the President's Commission on Pension Policy issued a recommendation along identical lines. I mention these references to underscore a serious threat confronting older Americans. For example, in the past many of the advisory's council's proposals have ultimately become legislation. This threat is not trivial. The need for legislative response is critical.

Three powerful arguments urge immediate consideration of this response.

First, the taxation of social security benefits would target one of the poorest sectors of our society. The incremental burden on our elderly population would amount to $36 billion by 1985. This averages $350 per year for every affected person over 65. Approximately 10.6 million of the 42.2 million benefit recipients would be impacted. Considering that almost 20 percent of retired persons—even with social security—live below the poverty level, it is difficult to comprehend why any proposal to tax program beneficiaries could enjoy even limited support. The idea bears frightening implications for the already depressed standard of living of America's older citizens.

Second, and this is extremely important, Mr. President, the apparent logic for taxing social security implies that the system is a welfare mechanism designed to redistribute income from the wealthy to the poor. This concept was forcefully articulated by the New York Times in an editorial last year. The paper's endorsement of the taxation of social security was based on the mistaken assumption that most beneficiaries would be unaffected because their income is so low: Only the privileged few, the article suggested, would be assessed. This line of thinking is wrong.

The social security program is a pension system to which one has a right based on the withholdings one pays into it throughout a working lifetime. It is neither a welfare mechanism nor a medium for redistributing society's assets. That is not interpretation, it is the language of the Social Security Act. I oppose any nonlegislative ruling which contradicts the original expressed purpose of Congress. I oppose turning social security into an instrument of political manipulation. The Wall Street Journal published an editorial responding to the statements that appeared in the New York Times and emphasizing the point I have just made, I urge my colleagues to read this article.

The third and final argument is one of integrity. At a time when confidence in the Federal Government is at an all-time low, I believe it would not be imprudent to aggravate that cynicism further by undermining the value and purpose of social security. Inflation and interest rate instability affects older Americans more than other groups. This makes it all the more important for Congress to guarantee, by statute, the integrity of the one social program which this sector of our society depends upon most.

In closing Mr. President, I applaud my distinguished colleagues leadership on this issue. I only hope that later this year we can give the Senate an opportunity to vote on a bill that will make the tax-exempt status of social security part of permanent law so that the retirees in this country will never have to worry about the possibility that their benefits might be taxed.●

● Mr. BENTSEN. Mr. President, as an original cosponsor of Senate Resolution 87, I am pleased to speak in support of this measure which expresses the sense of the Senate that social security benefits remain exempt from Federal taxation. Social security benefits are not explicitly precluded from taxation by statute, but have remained tax free because of administrative rulings dating back to 1938. A change in this policy of long standing would defeat the underlying purposes of the social security program and I do not believe that such a change is warranted at a time when our citizens are already overburdened by heavy taxes.

It would be unconscionable, particularly during a period of high inflation, to increase the tax burden for some of this Nation's most vulnerable citizens, elderly persons on fixed incomes. While the 1979 Advisory Council on Social Security and the President's Commission on Pension Policy Report released in February of this year recommend that benefits from social security receive the same tax treatment as other retirement programs, it is clear that the administrative problems associated with taxing such benefits would be extraordinarily complex and that the information available on the effects of such a change in policy is insufficient to justify implementing these recommendations.

Mr. President, the financial integrity of the social security system is of great concern to me and will be one of the most important issues before the 97th Congress. Adoption of this resolution will not delay examination of alternative funding sources for the payment of benefits under the Social Security Act, however, it will serve as a substantial commitment to the protection of benefits now being received. I urge my colleagues on both sides of the aisle to join with me in support of this resolution.●

● Mr. PRYOR. Mr. President, I join today with Senator HEINZ and other members of the Special Committee on Aging in supporting a sense of the Senate resolution expresing the view that social security benefits should remain exempt from Federal taxation.

During these times of uncertainty within the social security system, it is imperative that we continually reassure our elderly citizens that the social security program will fulfill its original promises to the American people.

With economic unrest and high inflation, our social security beneficiaries live in a constant fear that their benefits will become subject to taxation. At the present time 25 percent of our elderly citizens are near or below the poverty line and struggle with rising costs of fuel, food, medical care, and utilities. Prices for these basic necessities have escalated far above the Consumer Price Index.

To consider taxation for moneys that have been guaranteed as tax-exempt benefits would actually serve as a re-reduction in benefits. Such a reduction through taxation would be detrimental to those people who live on fixed incomes and lack any other avenue of receiving additional benefits. Those who would be affected by such a tax already pay 10 percent of the total personal income tax paid to the IRS.

Many hearings by the Special Committee on Aging have sharpened our perception of the vital importance and extensive dependence that our elderly place on the social security program. Although there is definite need for reform in the social security system to insure its financial soundness, a tax on guaranteed benefits would prove to be an unfair and undermining factor toward the reformation of our system.

The taxation of the benefits enjoyed by 93 percent of Americans over 65, coupled with inflation, would be requiring the millions of Americans who have paid faithfully into the social security program to carry an undeserved burden for the American people.●

● Mr. GRASSLEY. Mr. President, social security owes its current tax-exempt status to Bureau of Internal Revenue bulings in 1938 and 1941, which held social security lump sum and monthly benefits to be nontaxable. The 1941 ruling was based, in part, upon the Bureau's conviction that subjecting benefit payments to income taxation would tend to defeat the underlying purposes of the Social Security Act, the most important of which is to attack the problems of insecurity by poviding safeguards designed to reduce future dependency.

This sense-of-the-Senate resolution is necessary for a number of reasons. Foremost among those reasons is the concern generated among current beneficiaries by recent Advisory Council on Social Security recommendations that one-half of social security benefits be made subject to taxation. This resolution, expressing the sense of the Senate that the current tax exempt status of social security

benefits not be changed, should help to assuage their fears.

This resolution is also justified on substantive grounds. It is highly likely that Congress will be forced to take actions to alleviate the short- and long-term funding difficulties in social security this year, which will probably entail limited benefit reform. Any action by Congress or the IRS to tax benefits—especially the benefits of current recipients—this year would be ill considered.

Mr. President, I submit that the underlying purposes of the Social Security Act have not changed substantially since 1941. Logic would dictate, then, that social benefits should continue to be accorded tax-exempt status.●

● Mr. DODD. Mr. President, I believe the Senate should act affirmatively on Senate Resolution 87, expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits.

On May 20, by a vote of 96 to 0, the Senate passed an amendment to the omnibus supplemental appropriations bill expressing its sense that Congress not reduce social security benefits. The Senate agreed to consider only those reforms necessary to insure the social security system remains financially sound.

Taxing social security benefits is merely a back-door means of slashing benefit payments. Whether social security benefits are taxed or cut outright, the end result remains the same: benefits are reduced.

Reducing social security benefits would break a promise made not only to senior citizens who contributed to the fund in the past but to wage earners who contribute in the present. Thus, taxing social security benefits would seriously weaken the faith all Americans have in the integrity of the social security program and its ability to protect them from the sharp drop in income which often accompanies retirement, disability, and death of a spouse.

Today, one of every nine Americans is a senior citizen. These older Americans helped make this country what it is. They have fought wars, grown our food, worked as laborers and managers in our factories, built our roads, diiscovered cures for our diseases, and educated us and our children. They contributed part of their wages to the social security system during their most productive working years, confident that they would receive benefits when they needed them after retirement. Our senior citizens retired in good faith, believing that they could count upon governmental assistance if they needed it.

We cannot change the rules in the middle of the game for these seniors. They abided by the rules all their working lives, paying into social security funds year after year. How can we now decide not to pay back those who contributed to the social security program, thereby refusing to abide by the same rules we held them to?

Many of our elderly constituents made the decision to retire based upon the premise that the social security benefits due them would be paid. We cannot back out on them now without dangerously undermining not only their confidence in Congress but also the confidence of their children and their children's children.

Mr. President, this year the Congress is in the business of figuring out how best to limit, not increase, the tax burden on the American people. A number of tax reduction proposals have been floated by members of both parties, and I do not agree with all of them. For example, multiyear rate reductions of the sort proposed by the administration will probably prove inflationary and may lock us in to longer term policies without the flexibility needed to address rapidly changing economic circumstances. However, it is clear that stemming the tax burden in a manner consistent with our national economic objectives is of high priority. It is clear that imposing taxes on social security benefits not only is unfair for beneficiaries, but runs directly counter to the expressed wishes of the American people and Members of Congress of both parties. We should not inflict a double whammy on our senior citizens by simultaneously increasing taxes for them while cutting taxes for others, and imposing an arbitrary new standard which can only complicate and undermine their financial planning.

Mr. President, I urge that the Senate adopt Senate Resolution 87.●

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

Mr. DOLE. Mr. President, I am pleased to support this resolution. I trust that there will be no opposition to this measure. It is virtually identical to Senate Resolution 432, passed by the Senate last August 4.

The resolution is very simple. It merely states that it is the sense of the Senate that social security benefits not be taxed. Recommendations by the 1979 Advisory Council on Social Security and the President's Commission on Pension Policy that social security benefits be taxed, in part, may have alarmed many Americans. This resolution will put their fears to rest. The Senate, to my knowledge, has never considered taxing social security benefits and will not start now. The amendments made, in committee, to the resolution originally referred to us are minor language changes and modifications of factual statements. There were no objections to the changes or the measure itself in committee.

This resolution may be the least controversial item regarding social security we will see for quite awhile. This Congress must face very difficult decisions regarding the social security system this year. The taxation of benefits, however, will not be one of them.

KEEPING SOCIAL SECURITY BENEFITS EXEMPT FROM FEDERAL TAXATION

Mr. ROBERT C. BYRD. Mr. President, I rise in support of the resolution before the Senate today, which reaffirms our longstanding policy that social security benefits should not be taxed by the Federal Government

In recent weeks, we have heard a great deal of talk about reducing the size of social security benefits to help reduce the cost of the retirement system. Taxing benefits would certainly be one means of reducing benefit levels. And, a decision to tax current benefits would constitute a precipitious and unfair benefit cut for elderly Americans who have planned for their retirement with the full expectation of tax-free benefits.

The resolution before the Senate today states that the 97th Congress will not adopt any social security financing plan which would immediately subject social security benefits to Federal taxation.

The purpose of the resolution is simply to reassure the elderly community. It seems clear that the circumstances and events of recent months call for the Congress to reassure our Nation's social security retirees, and workers.

The integrity of the social security system depends upon the essential qualities of trust, confidence, and predictability. This year, there have already been too many surprises—shocks, in many instances—regarding proposed social security benefit cuts for Americans approaching retirement age, and for Americans who are already retired. These shocks have greatly disturbed the Nation's elderly and the Nation's workers. They have worked to undermine the integrity of the social security system.

The administration would like everyone to believe that it has not supported cuts in social security benefits for current beneficiaries, but that has not been the case. The administration called for a variety of such cuts, through the budget process. Its budget proposals drastically reduce disability coverage. Its budget proposals reduce and then eliminate benefits for dependents and survivors, between the ages of 18 to 21, who are attending school fulltime. Its budget proposals permanently eliminate the minimum benefit payment for both current and future retirees.

More than 500,000 Americans, age 80 or older, have been receiving the minimum payment for 15 years or longer. The administration would tell these elderly Americans, many of them widows, that they are no longer entitled to the benefits promised to them by the social security system when they made their retirement plans and that, if they need assistance, they should apply for welfare.

Many of us fought to preserve the minimum benefit payment for retired Americans. Senator RIEGLE twice offered amendments to preserve the payment for those already retired; both attempts resulted in rollcall votes, but were unsuccessful.

Reducing and eliminating social security benefits for retired Americans—through the budget process, not even a separate piece of legislation—sends a chilling message to Americans who believe in the social security system.

In May, when the administration called for major and immediate cuts in social security retirement benefits, the Senate unanimously went on record to reject the plan. At that time, I had many concerns. I was afraid that the President's advisers were misinterpreting his personal popularity as a license to unravel the social security system. I was afraid that the plan, accompanied by dire administration predictions of the social security system's imminent col-

lapse, was causing unnecessary fear and extreme distress among Americans—both young and old.

The depth of benefit cuts in that plan went beyond what might be necessary to insure adequate future financing of retirement benefits. The plan sent rapid shock waves through the elderly community because it was completely unexpected.

In accepting the Republican nomination for the Presidency, Mr. Reagan quoted Franklin D. Roosevelt, telling the American people, "It is essential that the integrity of all aspects of social security be preserved."

Mr. Reagan continued to strongly support social security throughout his campaign and just 2 months before he was elected he said:

This strategy for (economic) growth does not require altering or taking back necessary entitlements already granted to the American people. The integrity of the Social Security system will be defended by my administration.

The only benefit changes that I remember President Reagan discussing in his campaign for the Presidency were ones which would raise the cost of the system, because at that time, he supported raising the benefit levels for women.

When the President came before Congress to argue the merits of his budget plan, he said that no budget savings would be made by cutting social security retirement benefits. He said that those benefits would be preserved as part of the Nation's "safety net."

It is time for realism on social security; it is time for calm deliberation and no more surprises. The Congress should provide reassurance to our Nation's retirees and workers. The administration must also contribute to a restoration of confidence, and its officials must not prey upon our most vulnerable fears.

When OMB Director Stockman defended the administration's social security "reform" plan, he testified before a congressional committee:

The question before the Congress is whether the 36 million Americans who currently depend on the Social Security system can count on any check at all less than two years hence. . . . The most devastating bankruptcy in history will occur on or about Nov. 3, 1982.

Mr. Stockman said this to defend $88 billion in social security cuts over the next 5 years which would grow into a 23-percent cut in total social security benefit protection. The $88 billion in cuts would have destroyed the essential qualities of trust, confidence, and dependability in the system. The plan would have destroyed the system's integrity because the plan was cruel and inhumane. According to the administration's own economic forecasts, more than $80 billion of the "savings" in social security, proposed over the next 5 years, would not be needed to pay for benefits during this time.

In the Senate resolution disapproving the administration's social security plan, the Senate made it clear that we will oppose social security cuts designed to balance the Federal budget, rather than to restore financial solvency to the trust funds.

Let us now have some realism from the administration. Exaggerated statements do not contribute to debate, they distort it.

I support the social security resolution before the Senate today. It is a sensible statement of the sense of the Senate regarding Federal taxation of social security benefits. It is a positive declaration intended to reassure our Nation's elderly citizens. I am proud to be a cosponsor of the resolution, and I commend Senator HEINZ, chairman, and Senator CHILES, ranking minority member, of the Special Committee on Aging, for their bipartisan cooperation on the resolution.

Mr. HEINZ. Mr. President, I wish to ask for the yeas and nays on the resolution, unless they have been previously ordered. I do not recollect that part of the order.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HEINZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I am prepared to yield back the remainder of the time.

Mr. MOYNIHAN. Mr. President, I am prepared to yield back the remainder of the time on this side of the aisle.

The PRESIDING OFFICER. All time having been yielded back, the question first is on agreeing to the amendments in the body of the resolution.

Mr. CHILES. Mr. President, I wish to join with my colleagues and say I congratulate them on the introduction of this resolution.

I think it is very important, and it is a signal that we should be sending to the retired and disabled people of this country. With all of the shocks that have occurred in regard to the social security so far, with people told that the system is going to go broke, or that benefits are going to be cut precipitously, it is important to assure people that we are not going to put a tax on social security benefits on top of all the program benefit reductions reported by the Finance Committee, and I am delighted to be a cosponsor of the legislation.

The PRESIDING OFFICER. The question is on agreeing en bloc to the amendments to the resolution.

The amendments were agreed to en bloc.

Mr. HEINZ. Mr. President, we asked for the yeas and nays.

Mr. MOYNIHAN. We asked for the yeas and nays on the resolution as amended.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended. The yeas and nays have been ordered.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. TSONGAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted and who wish to do so?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—98

Abdnor	Ford	Metzenbaum
Andrews	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baker	Goldwater	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Helms	Quayle
	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Humphrey	Roth
Chafee	Inouye	Rudman
Chiles	Jackson	Sarbanes
Cochran	Jepsen	Sasser
Cohen	Johnston	Schmitt
Cranston	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Laxalt	Stennis
Denton	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Weicker
East	McClure	Williams
Exon	Melcher	Zorinsky

NOT VOTING—2

Hayakawa Tsongas

So the resolution (S. Res. 87), as amended, was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the resolution passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendments to the preamble.

The amendments to the preamble were agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the preamble as amended.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

S. RES. 87

Whereas social security was established to protect the income of Americans against the serious economic risks that families face upon retirement, disability, and death; and

Whereas social security provides a monthly payment to some thirty-five million beneficiaries; and

Whereas various bodies have recommended that social security benefits be included in taxable income for Federal income taxes; and

Whereas for the people affected, taxing of social security benefits would be tantamount to a cut in benefit payments; and

Whereas the elderly are especially burdened by inflation and the cost of basic necessities such as fuel, food, and medical care have risen faster than the rate of inflation; and

Whereas the prospect of taxation of benefits has alarmed many older Americans and may have undermined their confidence in the integrity of the social security program: Now, therefore, be it

Resolved, That it is the sense of the Senate that any proposals to make social security benefits subject to taxation would adversely affect social security recipients and undermine their confidence in the social security programs, that social security benefits are and should remain exempt from Federal taxation, and that the Ninety-seventh Congress will not enact legislation to subject social security benefits to taxation.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not beyond 5:30 p.m., in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LAST OF THE NAZI WAR CRIMES TRIALS COMPLETED

Mr. PROXMIRE. Mr. President, I would like to call the Senate's attention to an event which recently took place in West Germany. After 5½ years, the longest, most costly and probably the last of the Nazi war crimes trials was completed.

Although there are certainly other war criminals still at large, the difficulty of producing evidence of actions taken 40 years ago will probably rule out further prosecutions.

Some might hail this as a landmark, the end of official governmental actions taken in response to the holocaust. While this may be the end of the West German Government's actions, we in this country, and particularly in this Chamber, have a large piece of unfinished business still before us.

I am speaking of the Genocide Convention, the treaty which has been before the Senate for 30 years. How much longer must we wait before we take this most basic step in response to the holocaust?

West Germany has worked long and hard in attempting to face up to its responsibilities. We have hardly lifted a finger to face up to ours. I urge immediate ratification of the Genocide Convention.

ALL THAT'S GOLD GLISTERS

Mr. MATHIAS. Mr. President, Shakespeare once said that "All that glisters is not gold," and no one has contradicted him yet. But if Shakespeare had been a reader of the Washington Post he might also have said that "All that's Gold glisters."

Bill Gold's columns have glittered, glowed and glistered through the years. And in so doing they have shed light on countless issues for the benefit of myriad readers.

I have personally read Bill's columns for years and found them a source of both legislative inspiration and occasional correction of some erroneous idea or opinion of my own. I shall miss this fount of knowledge and I know that in this feeling I shall accurately represent a massive majority of Maryland Post fans.

I ask unanimous consent that an editorial from the Washington Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BILL GOLD RETIRES

In an obviously crazed moment of self-indulgence this morning, Bill Gold is telling his countless thousands of readers that he has reached the end of The District Line and "will write only occasionally" from now on. Some friend he turned out to be—just like that, after a mere 34½-year run, Bill all of a sudden decides he wants out of daily newspapering, and never mind that he's packing in a Washington tradition. Silence may be golden, but Gold silent?

No way. Bill Gold has never been at a loss for words—and he'll surely have a few harsh ones for us when he sees this, because he's been adamant that no fuss be made. But we owe as much to all the Washingtonians—natives as well as those who became naturalized, permanent citizens of this community thanks to Bill's potpourri of news, views and vignettes about our town. And then there are all those children—and their children—who know what Bill Gold has meant to the health care of young people in Greater Washington. We lost count when he headed for his second $1 million, but Bill's collections for Children's Hospital have made him one of the greatest individual fund-raisers ever in our town.

In this way, as in his daily reports, Bill has always succeeded in bringing out the best in people from every corner of the region, from offices, clubs, youth organizations, schools and civic groups. But as we indicated, he gets irritated when showered with deserved praise and moves quickly to shift the spotlight. This morning he does exactly that, with a warm introduction for Bob Levey, who begins a new local column for The Post on Monday.

It's not farewell to Bill for us, anyway, because we know better than to believe that this incurable newspaperman won't be on the phone or hovering over the city desk with his notes from an accident, fire or any other local news event he comes across. But for his unflagging love of the town and for sharing it with us and you, as a friend and as a pro, our thanks go to Bill Gold.

AMERICA SEEN FROM ABROAD

Mr. PROXMIRE. Mr. President, I hope each Senator will read Alex Brummer's Manchester Guardian article titled "America Seen From Abroad" with serious reflection.

Mr. Brummer decries the current furor to amend the Foreign Corrupt Practices Act. He says that changing the ethical standard to allow salesmen to corrupt foreign government officials on the ground of unleashing competition is an assumption that must be challenged. He challenges the assumption well and makes a good case for the defeat of S. 708 a bill that would gut the existing foreign bribery law.

I ask unanimous consent that Mr. Brummer's article, appearing in the Washington Post June 7, 1981 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA SEEN FROM ABROAD

(By Alex Brummer)

The name Magellan Petroleum hardly ranks among America's corporate giants. Until the last fortnight, when its affairs occupied three separate full-page advertisements in the Wall Street Journal, few investors can have even known or cared for its existence given its bleak record of 23 successive years of losses.

But Magellan's tangled affairs provide an instructive guide to the changing business ethics that are becoming commonplace in President Reagan's Washington.

The company is largely controlled by America's most prominent family of the New Right—the Buckleys. Among the family members are former senator James Buckley, who is now under secretary of state for security affairs, and William Buckley, a newspaper and television commentator and a regular on Reagan's dinner guest list.

A rebel group of Magellan shareholders, led by Canadian-based United Canso Oil and Gas Co., is seeking to dislodge the Buckley family. In their message to shareholders, the oilmen have noted that the Securities and Exchange Commission is currently investigating certain companies associated with members of the Buckley family, particularly Catawba Corp., which they control. As a result of these investigations, the SEC has informed Magellan that it will soon be seeking remedy through a civil lawsuit.

Whatever the merits of the Magellan case, it seems that the New Right has a different view of business ethics and regulation from that of the more moderate Republicans and Democrats who have dominated Washington thinking in recent years.

The change in attitude has been on full public view in recent days. Stanley Sporkin, who in his 20 years as SEC enforcement chief had earned the reputation as the toughest policeman around, abandoned ship in the face of New Right resentment and became general counsel to the CIA, where his investigatory talents were likely to be more appreciated.

Despite a Senate furor over the nomination of Ernest Lefever as assistant secretary of state for human rights, the Reagan administration for an extended time persisted in his defense. At issue in the Senate was not so much Lefever's view of human rights but the ethics of donations to a center he directed from the milk formula lobby.

Two other examples of the changing ethic spring to mind. President Reagan seemed to see nothing wrong in the behavior of his son, Michael, who invoked his father's name to try to secure government defense contracts. Yet under the now abandoned code of conduct introduced by his predecessor, Jimmy Carter, after his brother Billy's dealings with Libya, such behavior would have been specifically forbidden.

Second, the White House appears to have decided that bribery by American companies is not such a bad thing after all. After the Carter team spent the last few years trying to bully its friend, including Britain, into a tougher code to prevent international bribery, the United States under Reagan believes that export business comes first.

The theme that connects this series of

apparently unconnected events is the New Right's antipathy to regulation of business of any kind and international regulation in particular. Although it might clearly be possible in pure balance-sheet terms to show that regulation stifles initiative and in some cases profits and dividends, it does not address the abuses that created the necessity for such rules in the first place.

The United States, which has been in the forefront of corporate regulation, is abandoning its leadership role in the pursuit of short-term gains.

There can be little doubt that the SEC has been the glittering light over the years in the bureaucratic wasteland that is Washington. As Sporkin said: "We've helped preserve the integrity of our markets. That has made the U.S. markets safer than any other markets in the world."

It is a scandal that more information on British companies is available in the United States through the SEC's tough disclosure rules than in Britain. It is also worth noting that on many occasions in the United States the threat of litigation alone is enough to bring the errant companies to heel.

Nowhere was this more clear than in the case of international business bribery that erupted in the mid-1970's. Although the Reagan administration, in the hope of improving America's export performance, has taken aim at the Foreign Corrupt Practices Act, it was not the act, but the threat of legal action that led to disclosure statements by so many companies—including British firms.

Institutions and laws such as the Corrupt Practices Act have established a certain moral authority for American business after the dark days of Watergate, Vietnam, and ITT intervention in Chile.

The New Right appears to believe that by adapting ethical standards to allow unscrupulous businessmen to plunder investors, multinational companies to plunder governments they dislike, salesmen to corrupt foreign government officials and the presidents' family to trade on its name, they will unleash a competitive spirit in the American economy that has been lacking in recent years.

It is an assumption that must be challenged. Despite the burden of regulation, compounded by sky-high interest rates imposed almost by government fiat, business appears to be doing very nicely. Gross domestic product is up by 8.4 percent in the first quarter.

If Congress eases the Foreign Corrupt Practices Act, and a bribery row with an oil supplier erupts or the SEC fails to prevent a share-dealing scam, it will be only a short time before clamor for tough regulation will again be heard all the way to the White House. So why needlessly change the rules in the first place?

HIGH INTEREST RATES

Mr. BOREN. Mr. President, today, I again come to the floor of the Senate to address the negative effect which high interest rates are having on our Nation's productivity. For several days now, my colleagues and I have voiced our concern over the threat that interest rates are posing to our economy, in an effort to encourage the President and key policymakers of the administration to develop a plan to restore workable interest rates to our financial markets.

Mr. President, today I would like to briefly comment on the effects high interest rates are forcing on the general level of productivity in America. Without focusing on one industry or economic sector in particular, I shall present statistics which will point out the damaging across-the-board effects interest rates are causing.

We hear reports that small businesses can no longer afford to borrow the full amount of short-term credit required to maintain and modernize their businesses. Statistics released by the Small Business Administration point out that the average size of SBA loans to these businesses have, indeed, decreased over 8 percent in the last year.

While our smaller businesses and industries suffer the effects of high interest costs, productivity is becoming concentrated in the largest firms. The result is that the largest 200 firms in the United States now control 60 percent of all manufacturing assets. High interest rates are continuing to drain resources away from productive investment and innovation so that today there are 5 percent fewer people in research and development efforts than there were 12 years ago.

Industry spent $50 billion on advertising last year, compared to only $20 billion in research and development. The effect has been to choke out long-term productive investment, with the result that the United States share of world manufacturing output has declined from 21 percent in 1972 to 15 percent last year.

Our Nation was founded on a strong economic base of hardworking, productive, and innovative people. We need to implement a return to our American society where individual initatve and productivity are the primary stimulus to economic growth. To accomplish this important end, we must stop following a misguided high interest rate policy.

EXPORT TRADING COMPANY LEGISLATION

Mr. HEINZ. Mr. President, on April 8 of this year the Senate passed S. 734, the Export Trading Company Act of 1981 by a vote of 93 to 0. That bill is now proceeding to make its way through the House of Representatives.

One of the House committees that has been most careful in its examination of the bill is the Judiciary Committee, which has had 3 days of hearings on an alternative proposed by Congressmen RODINO and MCCLORY. A number of the witnesses at those hearings, and a number of the additional statements submitted also commented on S. 734 and its House counterparts, H.R. 1648 and H.R. 1799, contrasting the latter approach with that of the Rodino-McClory bill.

A particularly clear and thoughtful comparison of the two was submitted to the Committee by International Business-Government Counsellors, Inc. That organization's general counsel, John F. McDermid, has produced, in my view, a comprehensive piece of legal research and analysis which clearly lays out the differences between the bills and makes a compelling case that the Senate version will better meet the needs of the exporting community without prejudicing our antitrust enforcement interests. Mr. President, I think everyone interested in this legislation would be well-advised to take a close look at Mr. McDermid's testimony, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN F. MCDERMID

I. INTRODUCTION

My name is John F. McDermid and I am General Counsel and Government Relations Counsellor for International Business-Government Counsellors, Inc., a private international government relations counselling firm with headquarters in Washington, D.C.

My previous experience includes: Attorney-Advisor, U.S. International Trade Commission; Attorney, Bureau of Competition, Federal Trade Commission; and Assistant General Counsel, National Association of Manufacturers. While at NAM, I testified before the Senate Subcommittee on International Finance on various export trade association proposals (i.e., S. 864, S. 1499, and S. 1663).

I have authored several law review articles on international trade and foreign antitrust issues, including an article on the President's 1979 Antitrust Commission review of the Webb-Pomerene Act (Webb Act.)[1] I have long been concerned that U.S. antitrust laws are formidable obstacles for American companies operating abroad.

II. RECOMMENDATION

I endorse the good intentions behind H.R. 2326, the "Foreign Trade Antitrust Improvements Act of 1981", which, amongst other things, seeks to introduce a less complicated alternative to an export trading company antitrust certification procedure. However, the proposal will not—without numerous changes—respond to the needs of U.S. firms wishing to defray their costs and increase economies of scale by collectively seeking to enter the export market.

In this regard, Title II of H.R. 1648, the Export Trading Company bill is a far preferable route for legislative action. Therefore, I strongly urge the Committee to adopt H.R. 1948 in lieu of H.R. 2326.

III. REASONS FOR RECOMMENDATION

A. My criticisms of H.R. 2426 are based principally upon the following:

1. H.R. 2326 fails to even acknowledge that its primary purpose is to increase U.S. exports by helping U.S. firms better compete in the increasingly competitive world market. Unless the export promotion intent is made clear, the overall policy which is being sought may not be implemented by the U.S. government agency monitoring or administrating the antitrust exemption. Findings to this effect should be included in any initiative such as H.R. 2326.

2. H.R. 2326 fails to give adequate antitrust protection to enterprises seeking to cooperate jointly for export purposes. H.R. 2326 goes nowhere near that protection afforded enterprises under H.R. 1648, the Export Trading bill.

3. By concentrating half of its efforts to amending Section 7 of the Clayton Act, HR 2326 misses what is in fact really needed in terms of legislation by the U.S. business community to operate collectively for export purposes. The primary inhibiting factor to joint activity in export trade is not the uncertainty as to the types of effects on interstate trade that must be shown in order to establish U.S. antitrust jurisdiction over an international transaction. Thus, whether Congress legislates the standard to read "directly and substantially affects U.S. commerce" or "direct, substantial, and foreseeable," or some other formula for judging il-

[1] "The Antitrust Commission and the Webb-Pomerene Act: A Critical Assessment," 37 Wash. and Lee L. Rev. 105 (1980).

legality is not the burning issue. Rather, U.S. business enterprises are more concerned with the question of whether any kind of concerted action in export trade will be prosecuted either by the U.S. government or by private parties.

This is not to say it isn't laudable that Congress may want to legislatively standardize the effects doctrine. But such an amendment will not address the real and central problem that exists. Moreover, even with Section 7 amended as proposed under HR 2326, U.S. firms will still not be able to predict with any assurance whether their conduct will have a "direct, substantial, and foreseeable" effect on U.S. interstate trade. This determination is, after all, a factual question which is frequently very complex.

B. Possible certification procedure for H.R. 2326:

A meaningful certification procedure must be available for U.S. firms, or they cannot be expected to take advantage of any antitrust exemption for exporting.

If the Committee fails to embrace Title II, HR 1648, it should amend HR 2326 so as to provide a "meaningful" certification procedure which would include the following:

1. Remove the Justice Department as the sole or even primary decision-maker for assessing the legality of the joint conduct. Instead, the responsibility should be within the Commerce Department, the lead U.S. government export promotion entity.

If the Justice Department must be the administrator of the antitrust exemption, Congress should provide that Justice could not make any final decision as to the legality of the cooperative export arrangement without concurrence of the Commerce Department. In this way, a balance between the loss to competition against the gain to exports could be achieved.

2. Remove any possibility of private action, whether single or treble damages, unless the firms operating under the certification umbrella are found by the Justice Department to be operating beyond the granted certification. In this regard, however, U.S. firms should be given an opportunity to correct whatever abuses may be found before private actions may be brought.

3. Expand the scope of the term "joint venture." Under the present Webb Act and under Title II, H.R. 1648, firms are provided broad latitude to cooperate jointly for export purposes, therefore their activities are not limited to only "joint venture" relationships. There may be many reasons why U.S. firms would rather get together to export other than through legally created joint ventures. For example, companies may not find it necessary or even desirable to enter into a joint venture when their only purpose for cooperating with one another is to defray marketing expenses. To this point, former President Carter, in his September 26, 1978, export policy message, noted that there are instances in which joint ventures *and other kinds of cooperative arrangements between American firms are necesary or desirable to improve our export performance.* (Emphasis added)

In this regard, one of the principal purposes behind H.R. 2326 should be to allow exporters to achieve greater efficiencies through joint marketing so that they may offset some of the high costs incurred by international exporters who wish to enter foreign trade. Without an antitrust exemption, companies are terrified, for antitrust reasons, over any kind of inter-corporate cooperation, even if only for marketing purposes.

C. Justice Department should be removed as prime decision-maker:

The apparent intent behind H.R. 2326's amendment to the Clayton Act, Section 7, is to provide exporters a simple and easily understood antitrust exemption for concerted action in export trade which would promote U.S. exports, a change that is recognized in the following quote:

"For many years the manufacturers in this country have felt the need of passage of this bill in order to clarify their rights in the foreign export trade."

These were not the remarks of any present day member of Congress, but rather a 1917 statement of Senator Pomerene, one of the key sponsors of the present Webb Act (Cong. Rec. 2785 (1917)).

The obvious question is why was the Congressional intent never realized and therefore why hasn't the Webb Act really increased exports? One of the principal reasons lies in the fact that Congress placed Administration of the Webb Act with the antitrust authorities rather than with those government policymakers committed to enforcing an export promotion policy and because the thought of cooperative arrangements in export without the protection provided by the Webb Act was too risky for firms to undertake.

Since 1945, the Justice Department was given judicial approval to carry out possible Webb Act violations without waiting for the Federal Trade Commission (FTC) to conduct a section 5 "readjustment hearing", which permitted Webb Associations to readjust their business so as to comply with the law. With Justice essentially preempting the FTC, companies that may have been interested in the trading advantage of the export exemption did not do so for fear of possible criminal prosecution and/or treble damage private actions.

Perhaps due to a realization that Justice was reluctant to defer to the Webb exemption, the Minnesota Mining Court chastised Justice when it stated that:

The courts are required to give as ungrudging support to the policy of the Webb-Pomerene as to the policy of the Sherman Act. Statutory eclecticism is not a proper judicial function.[2]

Moreover, the Justice Department's bias against Webb Associations, and against non-Webb Act cooperative export transactions, (and therefore bias against implementing a proper balance between antitrust principles and export promotion) is seen in the role it played in examining the Webb Act in the President's National Commission for the Review of Antitrust Laws and Procedures (the Commission).

A close examination of the Commission's record and its findings reveal that—as a direct result of the Department's leadership role in that Commission and predictable institutional bias toward antitrust enforcement policies—(as compared for example, to export promotion)—much of the Webb-Pomerene analysis was both factually incorrect and wholly misleading.

As a result in the absence of the Presdentially appointed Business Advisory Panel's affirmative findings, the commission would likely have recommended repeal of the Webb Act.

It is more than reasonable to expect—based upon the above history of the Department vis-a-vis the Webb Act—that it will continue to be antagonistic toward any departure from purely competitive, free market doctrines. This is not, after all, surprising since the Department has an institutional mandate to assure that this country's antitrust laws and principles are fully implemented.

Accordingly, unless U.S. firms are given some clear assurances—preferably through a certification procedure—that their cooperative action will not be subject to an unexpected U.S. government (or private party) prosecution, Congress should expect that the antitrust exemption will not be taken advantage of and that we will be right back to the situation we are witnessing and have witnessed under the present Webb Act.

IV. NEED FOR EXEMPTION

A. Antitrust As "Real" Impediment to Export Trade:

Many witnesses before this Committee and elsewhere have argued that there is only a business community "perception" that this country's antitrust laws are an impediment to export trade.

It is more than a "perception problem". There is a *real* fear that what may be done collectively for export may be unlawful. Examples in support of this are as follows:

1. Justice Department's attitude towards cooperative arrangements for export:

The Antitrust Division's attitude towards collective export arrangements and whether they may be lawful depends upon the policymakers in charge, which in turn results in confusion as to whether certain conduct is lawful or not. For example, imagine the reaction of established Webb Associations, potential Webb Associations, or firms contemplating a collective export arrangement, to the following statement made by a former Assistant Attorney General in charge of the Antitrust Division:

The existence of an antitrust exemption for export associations *inevitably affects competition at home and thereby affects the American consumer. Every export arrangement that offsets the amount of a product sold abroad must inevitably affect the amount sold at home* (emphasis added).[3]

Mr. Turner's remarks conspicuously fail to recognize that, in passing the Webb Act, Congress intended to effectuate a policy in the national interest and stimulate exports even though there might exist some danger to domestic competition. Moreover, the Department's antitrust chief failed to acknowledge that if, in fact, abuses are found judicial remedies are available to deal with them.

2. Confusion in defining application of antitrust laws:

As admitted by many antitrust lawyers both in and out of the government, and as indicated in the Justice Department's 1977 Antitrust Guide for International Operations, this country's antitrust laws—particularly, as they apply to foreign commerce—are rarely susceptible to clear and concise rules for determining what is permissible conduct.

For example, a former Antitrust Division Chief recognized that the standards for analyzing "collateral restraints" in joint ventures are "both too tough and too vague. [4] Moreover, he stated, this critical area of international trade activity is "quite rightly subject to confusion and criticism and the (Antitrust) Guide did nothing to resolve the issue."

Similarly, the Guide notes that "the United States Antitrust statutes do not provide a checklist of specific, detailed statutory requirements, but instead set forth principles of almost constitutional breadth" (Guide at 21).

With regard to joint ventures for export, although certain very narrowly defined short-term joint ventures may be permitted by the Justice Department, there is no assurance that they may not be attacked through a potentially crippling private right of action.[5] The Justice Department, through

[2] *United States* v. *Minnesota Mining and Mfg., Co.*, 92 F Supp. 947, 965 (D. Mass. 1950).

[3] Testimony of Donald F. Turner, 1976, before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary.

[4] Baker, Donald, "The Published Guide for International Operations Two Years Later" (1979) at 11–12.

[5] The *Antitrust Guide* even conditions the creation of short term joint ventures, stating "Any joint venture among competitors involves some antitrust risk that the cooperation may spill over into other areas." (The Antitrust Guide at 20). It is important that

its Guide, fails to recognize that many long-term joint ventures are necessary to reap the benefits of developing and retaining profitable foreign markets.

B. U.S. competitive disadvantages in foreign transactions:

One of the primary reasons why U.S. firms need antitrust protection for export cooperation arrangements is to enable them to compete more effectively in world markets.

As stated so succinctly by the American Bar Association as far back as 1954,

. . . the existence of State controlled buying agencies, State monopolies and other foreign industrial combinations make it desirable that American exporters be permitted to combine amongst themselves in export associations.[6]

In centrally planned economies, there is no necessary link between economic lists and prices. Indeed, like cartels, state-trading organizations are given a monopoly over the importing and exporting of such goods and may control the quantities and prices of such goods. The decisions of the state planners promote governmental objectives and bear no relation to competitive conditions. As a consequence, it is extremely difficult for the individual American exporter to face nonprice competition in these countries' home markets and in third country markets.

Moreover, the Judiciary Committee should be mindful of the competition individual American exporters currently face in competing with the large integrated trading companies which have been established worldwide, particularly in Japan. These organizations began on the theory that a combination operates more efficiently than the independent constituent firms. The enormous success of international trading companies is most pronounced in Japan and Korea, where their role in export expansion has greatly contributed to the growth in their economies.

Lastly, unlike other antitrust systems in the world, American law prohibits any cooperative arrangements by firms which restrain export trade, even if the restraint has no effect on domestic interstate trade. Most other industrialized countries strike a balance between antitrust enforcement and other national priorities, such as export promotion or increased employment. In stark contrast, in one landmark case, the U.S. court found that "the art has rapidly advanced, production has increased enormously, and prices have sharply declined . . ." Yet, because "the suppression of competition . . . is in and of itself a public injury . . ." a violation of our antitrust laws was found.[7]

C. Possible U.S. multinational alternatives:

If Congress fails to provide an adequate exemption and system for permitting U.S. firms to cooperate for export purposes, there is a possibility that more and more U.S. multinationals will undertake cooperative arrangements from other trading countries' markets rather than our own.

Such "global sourcing" might be necessary to compete against the private, public, and quasi-public combinations that are operated for export in such countries as France, Germany and Japan.

If U.S. multinationals are forced to look abroad to export collectively from those countries, the result will mean (1) lost U.S. jobs, (2) lost U.S. revenues and (3) declines in the U.S. balance of trade and payments.

V. JUSTICE DEPARTMENT RECENT RECOMMENDATIONS ON FOREIGN TRADE ANTITRUST IMPROVEMENTS ACT

It was encouraging to learn that the Justice Department endorses the thrust of this statement; namely, in William Baxter's words, that the Title II Export Trading Company "procedure would provide a degree of antitrust certainty and assurance beyond that provided by legislation such as S. 795". (S. 795 is the Senate companion to HR 2326.)

However, I would urge Congress to carefully assess the effects of introducing a 50 percent rule, as recommended by the Assistant Attorney General. This rule would prohibit, with only certain undefined exceptions, certification to associations whose members comprise 50 percent or more of the domestic market for a product or service that they are exporting.

The apparent rationale for this recommendation is based upon a concern that the activities of highly concentrated U.S. industries—if permitted to be carried out collectively for export purposes—are more likely to result in domestic spillover effects than if concentration did not exist. It is believed that a limitation placed upon the industries able to take advantage of an antitrust exemption is unnecessary since the FTC or Justice can always bring suit in Federal court when there is evidence of a restraint on domestic trade. It is simply bad policy to assume that the activities of every concentrated industry that cooperates in any way to increase exports will result in a restraint on interstate trade.

Additionally, the 50 percent rule could very easily exclude many of the small and medium sized firms that Congress would like to see enter the export market. It is well known that in antitrust or trade regulation analysis, product markets can be defined extremely narrowly. Invariably, there are fewer firms in any industry where the product market is defined narrowly. As a result, if the Justice Department's recommendation is accepted, many small and medium sized firms in both the manufacturing and service sector may be unintentionally excluded from taking advantage of the antitrust exemption for export trade.

VI. CONCLUSION

If enacted, H.R. 2326 would provide only a marginal benefit to U.S. firms seeking to enter into collective export arrangements without fear of antitrust retaliation.

In order to provide the assurance that is necessary to permit cooperative action and therefore to enable U.S. firms to better compete in world markets, Congress must place primary jurisdiction for administering any antitrust exemption in the Commerce Department where there is an increasingly committed determination to increase U.S. exports, which in turn will stimulate domestic production, increase U.S. employment and improve this country's international trade account.

In order to effectuate the desired policy, it is critical to establish a procedure (i.e. compliance procedure) which precisely conveys the message to exporters that they will not be antitrust liable for transactions which are carried out within the parameters of the certification.

In this regard, it is believed that the certification procedure as set forth in HR 1648, Title II is not difficult to understand or to follow and that—on balance—the complexity that may be seen by some observers is far preferable to an exemption that does not provide maximum antitrust certainty. If this certainty is not provided by Congress, there is a strong likelihood that a substantial number of companies will not take advantage of the exemption, as has been the case under the present Webb Act.

procedures be created that would allow firms to alter their commercial practices—without fear of antitrust prosecution—where there are indications that domestic competition is being adversely impacted as a result of the export arrangement.

[6] Report of the ABA Committee on Antitrust Problems in International Trade, 5 ABA Section of Antitrust Law 188 (1954).

[7] *United States* v. *National Lead Co.*, 63F Supp. 513 (D.C.N.Y.), aff'd., 332 US 319.

TAX STRADDLES

Mr. DIXON. Mr. President, the Senate will soon be considering House Joint Resolution 266, the Economic Recovery Act of 1981. I agree with the Senate Finance Committee that tax relief is essential if our economy is to be put back on the road to economic health. Tax relief is essential for individual citizens as well as for business, both small and large, and for the agricultural community.

The tax proposal reported by the Senate Finance Committee has 5 titles: Four of these titles are designed to provide needed tax relief. I have some concerns regarding the provisions in those titles, but I will save my comments on them for another day.

What I would like to discuss for a few moments now is the 5th title of the tax bill, entitled "Tax Straddles."

At the outset let me say that while I believe the Finance Committee provisions may go too far, I also believe that the committee has done the Senate a considerable service by bringing this issue to our attention. After reviewing the testimony presented to the committee, I am convinced that there are tax abuses involving commodity straddles, and that there is a definite need for legislation to correct those abuses.

I am concerned, however, that the Finance Committee's proposal could have significant adverse impacts on our Nation's commodity markets and could serve to disrupt the efficient functioning of those markets.

I agree with the senior Senator from New York (Mr. MOYNIHAN), one of the most intelligent and perceptive Members of this body, who was quoted in a recent Wall Street Journal story as stating that "the commodities markets are invaluable institutions." The distinguished Senator from New York might be somewhat surprised to find out that I also agree with his further comment, that the commodities markets "are being invaded by people with no interest in commodities who use this vehicle to avoid paying taxes." I support efforts to end this abuse.

However, Mr. President, I also agree with the Assistant Secretary of the Treasury for Tax Policy, Mr. John Chapoton, who, in testimony before the Senate Finance Committee on the straddle issue, stated that the commodities markets, and the instruments which are traded on these markets, are totally unlike the stock and securities markets with which most of us are familiar.

I am concerned, therefore, about provisions in title V of the tax bill which seem to be trying to force commodities transactions into the mold of securities transactions.

The commodities markets are unique and they do play a vital role in the American agricultural distribution and marketing system. I believe, and I understand that the Department of Agriculture shares this belief, that the changes proposed by House Joint Resolution 266 could increase the volatility of commodity prices and make the outcome of essential hedging transactions more uncertain and costly.

I am concerned that the Finance Committee's proposal does not give adequate

consideration to the impact the changes would have on the operation of the commodity markets. I believe that further hearings on the potential impact of the proposal should be held before so drastic a change in the tax law is made.

A recent editorial from the Chicago Sun Times summarizes very well the concerns I have with the straddle provisions in House Joint Resolution 266. The editorial states that the goal of the legislation is worthy: "to prevent those who make financial killings in entertainment, real estate, the professions or otherwise from sheltering their earnings against taxes by investing them in futures contracts."

The editorial goes on to state that "the problem, however, is that this dragnet also sweep in bona fide futures traders—hedgers and speculators—who serve a very useful function in the economy. By their willingness to take risks on what futures prices might be, these traders take risk off the backs of those who cannot afford it: farmers, ranchers, food processors, businesses, and financial institutions.

To fulfill this function the risk taker must be able to average profits and losses over time and be assured of capital gains treatment on his earnings."

The editorial concludes that legislation to shut off the tax shelter to outsiders is appropriate, but that legislation should be written to exempt bona fide futures traders.

If this is not done, some go as far as to say that the bill (H.J. Res. 266) could literally destroy U.S. futures markets as they exist today.

Mr. President, I ask unanimous consent that two recent columns in the Chicago Tribune by Bob Wiedrich which explore the problems raised by title V in more detail be printed at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BILLS WOULD DESTROY FUTURES MARKET HERE

Congress has short-changed the Midwest on defense spending. It consistently has taken more Midwestern tax dollars than it returns. Because of partisan politics, it is threatening the future of the Great Lakes shipping industry.

Now, an alliance of certain House and Senate members with Treasury Department bureaucrats is jeopardizing the existence of the Chicago Board of Trade, the Chicago Mercantile Exchange, and the nation's agricultural community.

Commodity tax bills introduced in both houses under the guise of reform measures would destroy the futures market in farm products, a system that has served this country well for 150 years and is the envy of the world.

That is the judgment of commodities market leaders, supported by such agricultural interests as the 3 million member families of the American Farm Bureau Federation.

The bill sponsors, however, are attempting to railroad their efforts through Congress on grounds the measures would obliterate the practice of wealthy persons who abuse the futures market to create tax shelters for income earned in totally unrelated fields.

The farmers and commodities speculators don't quarrel with that goal. They don't like tax dodgers any more than anyone else.

But they say that if the legislation introduced by Sen. Daniel Patrick Moynihan and Rep. Benjamin Rosenthal, both New York Democrats, is enacted as offered, the speculators who provide risk capital vital to the market's functions will take their money elsewhere.

Thus, industry leaders—again backed by farm groups, grain elevator operators, and the 460,000 producers of the American Soybean Association—are asking that Congress reach a compromise:

Drive out the rock stars and professional people like doctors and lawyers, who use the commodities futures market to shelter substantial incomes from taxation. But preserve the practice that permits legitimate market speculators to offset any profits made with other commodity losses.

Otherwise, they predict, the commodities market place, which handled $150 billion in agricultural products in 1979, will suffer anywhere a dislocation of from 1 to 10 percent.

That estimate comes from, among others, Leslie Rosenthal, Chicago Board of Trade chairman. And he says those percentages translate into a $1.5-billion to $15-billion dislocation, a serious disruption indeed.

Congress has been gnawing at the issue for some time. Rep. Rosenthal (no relation to Chicago's Leslie Rosenthal) introduced a similar measure a year ago, but received little support.

This year, however, some congressmen are on an economy kick and the Reagan administration, through the Treasury Department, is supporting the legislation in the hope Uncle Sam will be $1.3 billion richer in tax revenue by closing such loopholes.

The motivation is noble; the consequences, however, could be disastrous unless common sense prevails.

The proposed law would, for example, prohibit a rock star from taking $200,000 earned warbling at Woodstock and writing off that income against $200,000 in futures market losses.

Neither he nor the physicians, surgeons, dentists, and other professionals with big bucks, who play the market with the intention of losing, would be permitted to persist in their intrusion.

But the bona fide risk takers, estimated by Rosenthal to number 500,000 to 1 million across the country, would also be barred from writing off market losses against income earned in the same market.

"Our marketplace has been used in the last three to four years by people seeking tax shelter gimmicks," declared Leo Melamed, Chicago Mercantile Exchange special counsel.

"The Treasury Department correctly feels our market should not be abused that way. Government, however, usually does not understand the complexities and possible ramifications of its actions.

"In the attempt to get rid of these abuses and tax avoiders, it is proposing rules that would jeopardize the entire market. As the legislation now stands, it is building a $1.5 to $15 billion mousetrap to catch a $1.3 billion mouse.

"These events are occurring at a time when the political climate is for fiscal restraint and revenue raising. But the Treasury is using a blunderbuss approach. It is not differentiating between types of income.

"New York is the capital of the securities market. Chicago is the capital of the futures market. The effect of this legislation would be devastating on Chicago."

In Tuesday's column, I'll tell you just how devastating that would be.

ONE MARKET WITH A FUTURE

Chicago would be a catastrophic loser if Congress succeeds in dismantling the American system of commodities futures markets. So would American farmers.

Every day commodities traders here must deposit in Chicago banks an average of $1.5 billion in good faith money to cover potential market losses.

That money generates an enormous amount of investment income that gives the entire community an economic boost. It also generates a large number of support activities—lawyers, accountants, computers, and real estate.

The Chicago Board of Trade is constructing a $108-million building to house its trading facilities. The Chicago Mercantile Exchange has entered into an undertaking of similar proportions.

"We've made this investment because Chicago is well on the way to becoming the premier financial center of the world," declares Leslie Rosenthal, Chicago Board of Trade chairman. "The amount of jobs these centers create is almost staggering for a one-industry effect.

"If you take the value of the total annual transactions of the futures markets, 80 per cent of which are in Chicago, the figure approaches the gross national product of $3 trillion."

A recent Tribune series on the city's economic woes demonstrated the downtown curve of Chicago's growth in virtually every sector. The futures industry, however, has been on a growth curve for the last decade and persists in that direction.

"Our volume has grown tenfold in the last 10 years," said Leo Melamed, Chicago Mercantile Exchange special counsel. "If Congress kills off this industry, Chicago will be dealt a potentially mortal blow."

For 150 years, the agricultural community has prospered because of the unique tradition of trading in commodities futures.

Now Congress is threatening the entire structure of that market by entertaining legislation that would prohibit tax shelters for those suffering losses.

The intent of the measures is good—to banish from the marketplace abusers such as professional people and rock stars who avoid paying taxes by charging off market losses against capital gains earned elsewhere.

The futures industry agrees with that stance. So does a majority of farm organizations.

But the bills, as they now stand, also would prohibit bonafide speculators, who take enormous risks in the market, from enjoying similar tax advantages. And without such speculators, Rosenthal predicts, the industry could collapse.

"It will push capital to overseas markets modeled after the American system in London, Hong Kong, Canada, and Australia," Melamed said.

"The farmer is the biggest gambler. He plants his crops. He figures out such cost factors as planting, machinery, manpower, and harvesting.

"But the one thing he cannot figure is the eventual sales price, whether his crop will produce a profit or a loss. When it produces a loss, the government must support him. And that risk has become even greater in an era of inflationary costs.

"The futures market, however, provides the only mechanism whereby a farmer can establish a sales structure for his product before it is harvested. That's the key factor.

"It gives him the opportunity to shift his risk to someone else, the speculator, someone with risk capital. Thus, the farmer is guaranteed a price as much as 6 to 18 months in the future.

"The United States is the only country with markets on such a scale and the only one with a highly successful agricultural industry. If you tinker with that mechanism, you endanger a vital part of that complex. What these markets do is insure price. And the cost of that insurance is assumed by the risk taker.

"Otherwise, the farmer would have to increase the price of his products to offset the cost of his risk. So there is no question that damaging that mechanism will eventually cost consumers many dollars."

Once a farmer, grain elevator, or feedlot operator has sold a futures contract, it is like money in the bank. He can take that agreement to a bank as collateral on loans for expansion or expenses.

But if Congress drives off that risk capital essential to the market's function, Rosenthal predicts Americans will soon see the results reflected in their grocery bills.

It is as simple as that. But somehow Congress has not yet perceived the folly of the proposed legislation.

Mr. DIXON. Mr. President, I am convinced that the risk of serious disruption of the commodity markets due to the changes proposed in House Joint Resolution 266 is real. On Friday, July 10, the House Ways and Means Committee adopted a tax straddle proposal that differs significantly from that contained in the Senate tax bill. I believe that the House proposal eliminates the real abuses that so rightly concern the Senate Finance Committee, but I believe the House proposal is much less likely to cause disruptions in the commodity markets.

The House proposal would eliminate the use of tax-motivated commodity straddles to shelter income which is unrelated to the commodity markets. It will keep entertainers, executives, professionals and others from using the commodity markets to shelter their ordinary income from salaries or investments which have nothing to do with the commodity markets.

Further, the House proposal will retain the provisions of existing law regarding treatment of interest and other costs related to holding a commodity. Requiring the capitalization of these costs could have serious ramifications on the storage of grain in this country, and I see no reason to treat the costs of holding commodities differently from the costs of holding any other assets. Interest incurred in holding real estate, stocks, and other forms of investments is deductible, and any gain from a sale of the asset can still qualify as a long-term capital gain. Interest related to holding a commodity should also be deductible.

The House proposal would also eliminate the Finance Committee's proposal to tax gains on commodities using the fair market value of the commodity as of the end of the tax year even though the commodity was not sold. I believe that this action is without precedent, and I do not think it has any place in the Tax Code.

Mr. President, the House proposal strikes a reasonable balance between the need to eliminate abuses of the Internal Revenue Code and the need to avoid significant injury to the commodity markets. The Finance Committee estimates revenue loss from tax avoidance at approximately $1 billion a year; their proposal would raise roughly $1.3 billion in fiscal year 1982. The House proposal would result in additional revenues of almost $900 million in fiscal year 1982, which demonstrates that it eliminates the real abuses that have recently come to the attention of the Senate.

Mr. President, because of the potential problems raised by the Senate proposal, I had seriously considered offering the House provisions as an amendment. I am a political realist, however, and I recognize that there is not now sufficient support in the Senate to insure that such an amendment would be successful.

Even if the straddle provisions are not modified on the Senate floor, there is still an opportunity to achieve a reasonable compromise. The Senate-House conference on the tax bill will have the flexibility to fashion a compromise that will close any loopholes without adversely affecting the commodity markets and American agriculture. I hope that the eventual conference on the tax bill will achieve these two objectives.

I urge my colleagues to join me in working to see that it does.

Mr. BAKER. Mr. President, it is my hope and expectation to be able to ask the Chair to name the conferees to the conference requested on the reconciliation bill within the time prescribed for the transaction of routine morning business. I am not prepared to do that at this moment, but I expect to be able to do that before 5:30. I wish to announce that there will be no more rollcall votes today.

ORDER FOR STAR PRINT—S. 881

Mr. RUDMAN. Mr. President, I ask unanimous consent that a star print be made of S. 881, the Small Business Innovation Research Act of 1981. The correction appears on page 4, line 20, of the bill.

I ask unanimous consent that the correct copy of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

9 S. 881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Small Business Innovation Research Act of 1981".

SEC. 2. (a) The Congress finds that—

(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and the United States balance-of-payments deficit; and

(2) while small business is the principal source of significant innovations in the Nation, the vast majority of federally funded research and development is conducted by large businesses, universities, and Government laboratories.

(b) Therefore, the purposes of this Act are—

(1) to stimulate technological innovation;

(2) to use small businesses to meet Federal research and development needs; and

(3) to increase private sector commercialization of innovations derived from Federal research and development.

SEC. 3. Section 9(b) of the Small Business Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) to develop and maintain a source file and an information program to assure each qualified and interested small business concern the opportunity to participate in Federal agency Small Business Innovation Research programs;

"(5) to coordinate with participating agencies a schedule for release of SBIR solicitations, and to prepare a master release schedule so as to maximize small businesses opportunities to respond to solicitations;

"(6) to independently survey and monitor the operation of SBIR programs within participating Federal agencies; and

"(7) to report annually to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives on the SBIR programs of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR programs.".

SEC. 4. Section 9 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(e) For the purpose of this section—

"(1) the term 'Federal agency' means an executive agency as defined in section 105 of title 5, United States Code, or a military department as defined in section 102 of such title;

"(2) the term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government;

"(3) the term 'Small Business Innovation Research program' or 'SBIR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a simplified, standardized acquisition process having a first phase for determining, insofar as possible, the technical and economic feasibility of ideas proposed under the program, and a second phase, the awarding of which shall take into consideration the potential commercial applications of the research or research and development, to further develop the proposed idea to meet the particular agency needs; and a third phase where private capital pursues commercial applications of the research or research and development; phase three may also involve follow-on contracts with some agencies for products or processes intended for use by the United States Government; and

"(4) the term 'research' or 'research and development' means any activity which is (A) a systematic study directed toward fuller scientific knowledge of the subject studied; (B) a systematic study directed specifically toward applying new scientific knowledge to meet a recognized need; or (C) a systematic application of new scientific knowledge toward production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements. Such term does not include studies related to the social sciences or the humanities.

"(f) Each Federal agency which has a research or research and development budget in excess of $100,000,000 for any fiscal year beginning with fiscal year 1982 shall expend not less than two-tenths of 1 per centum of such budget for fiscal year 1982, not less than six-tenths of 1 per centum for fiscal year 1983, and not less than 1 per centum of such budget for all subsequent fiscal years with small business concerns specifically in connection with a Small Business Innovation Research program which meets the requirements of this Act and regulations issued hereunder. Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than under an SBIR program shall not be counted as meeting any portion of the percentage requirements of this section.

"(g) Each Federal agency required by subsection (f) to establish a Small Business Innovation Research program shall in accordance with this Act and regulations issued hereunder—

"(1) establish an agency Small Business Innovation Research program;

"(2) determine categories of projects to be in its SBIR program;

"(3) issue SBIR solicitations in accordance with a schedule determined cooperatively with the Small Business Administration;

"(4) receive and evaluate proposals resulting from SBIR proposals;

"(5) select awardees for its SBIR funding agreements;

"(6) administer its own SBIR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements; and

"(8) make an annual report on the SBIR program to the Small Business Administration.

"(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and development in excess of $20,000,000 for any fiscal year beginning with fiscal year 1982 shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less in actual dollars than the amount of research or research and development awards made to small businesses in 1981.

"(i) Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of awards pursuant to grants, contracts, or cooperative agreements over $10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

"(j)(1) The Administrator of the Office of Federal Procurement Policy, in conjunction with the Small Business Administration, shall promulgate and issue appropriate regulations, in accordance with the provisions of subsections (f), (g), and (h) and within one hundred and twenty days after the date of enactment of the Small Business Innovation Research Act of 1981, for conduct of Small Business Innovation Research programs within the Federal Government. Such regulations shall—

"(A) provide for simplified standardized and timely SBIR solicitations, proposals, and evaluation processes; and

"(B) require Federal agencies to coordinate SBIR solicitation release schedules with the Small Business Administration.

"(2) The National Science Foundation and the Small Business Administration shall furnish the Administrator of the Office of Federal Procurement Policy advice and assistance in the promulgation of regulations under this section.".

SEC. 5. The amendments made by this Act do not authorize the appropriation of funds.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GROUNDBREAKING FOR THE MARGARET CHASE SMITH LIBRARY CENTER, SKOWHEGAN, MAINE

Mr. MITCHELL. Mr. President, I would like to bring to the attention of my colleagues and honor that has recently been bestowed on one of the finest and most dedicated persons that Maine or any other State has ever sent to this body—Margaret Chase Smith. On Thursday, July 9, ground was broken in her hometown of Skowhegan, Maine, for the Margaret Chase Smith Library Center.

A facility to house the papers and records of Senator Smith's career will be an invaluable resource, not only to the people of Maine, but to the entire Nation. During her 24-year tenure in the Senate, Margaret Chase Smith was a tireless voice for her constituents. But her contributions to public life reached far beyond the borders of Maine.

As the first woman elected to the U.S. Senate, and as the first woman to seek the Presidential nomination of a major party, Senator Smith was an important pioneer in the ongoing struggle to make women full participants in the political process.

The courage and honesty with which she spoke out against the deplorable tactics of Senator Joseph McCarthy earned her the respect of her colleagues and the country.

An able legislator, a dedicated public servant, and a national political figure, Margaret Chase Smith has brought great honor to Maine and to the Nation. It is gratifying to see her important contributions honored in this way.

I ask unanimous consent to print in the RECORD the text of a recent editorial in the Portland Evening Express honoring Senator Smith on this occasion.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE LADY FROM MAINE

The groundbreaking for the $1 million Margaret Chase Smith Library Center in Skowhegan the other day represents an important step in preserving the historical records of one of the most remarkable political figures in American history.

Sen. Smith was, characteristically, brief and to the point at the ceremony. "This," she said, "is truly one of the most cherished moments of my life. It is because of the peace of mind that it gives me as to the use and security of my papers and records for posterity."

All Maine shares that peace of mind. Margaret Chase Smith embodies the best of the Maine character and it is fitting that the records of her long and distinguished career be housed within the state.

Although she left the political arena almost a decade ago, her qualities of honesty, courage, dedication and devotion to purpose remain as benchmarks for all public servants.

She was the first woman ever elected to the United States Senate and for 24 years was one of its most respected figures. Her courage was unquestioned; in a terse, 15-minute "Declaration of Conscience" speech in June of 1950 she became the first national figure to decry the communist-hunting tactics of Sen. Joseph McCarthy.

Her honesty was without parallel. She kept her own political counsel and once she had made up her mind she never once broke her word. Her credibility was unassailable.

Her dedication and devotion were monumental. In her time she set the record for an unbroken string of consecutive roll call votes.

In becoming a nationally known and influential senator—she was the first woman ever to seek the presidential nomination of a major political party—Margaret Chase Smith paved the way for the entry of many women into national politics.

Yet she has never considered herself a feminist. She simply did the best job she could, secure in the knowledge that her Maine neighbors would judge her on the basis of her performance without regard to her sex.

The new Margaret Chase Smith Library Center assures that the record of her extraordinary political life will be permanently gathered in her hometown. That's where it belongs.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, may I inquire is the Chair in a position to name conferees on the part of the Senate in respect to the conference on the budget reconciliation bill?

The PRESIDING OFFICER. The Chair has that authority.

MOTION TO INSTRUCT SENATE CONFEREES

Mr. CRANSTON. Mr. President, on behalf of the Senator from Alabama (Mr. DENTON), the Senator from Florida (Mr. CHILES), and myself, I move that the conferees on the part of the Senate to be appointed in connection with H.R. 3982 be instructed as follows:

That the conferees on the part of the Senate insist that provisions authorizing appropriations for the Head Start program be included in the conference report at the following levels: $950,000,000 for fiscal year 1982, $1,007,000,000 for fiscal year 1983, and $1,058,357,000 for fiscal year 1984.

Mr. President, that is the motion. Let me explain the reason for it.

First, let me say I am delighted to be joined in this motion by the Senator from Alabama (Mr. DENTON), who is the chairman of the authorizing subcommittee on the Labor and Human Resources Committee, and the Senator from Florida (Mr. CHILES).

This motion is designed to insure that the Head Start program, one of the most successful and important programs supported by the Federal Government, does not become the victim of the rush to complete action on the reconciliation legislation.

My motion would simply instruct the conferees to include a provision authorizing appropriations for the Head Start program at the level requested by the administration for fiscal year 1982 and the levels approved by the Senate for fiscal years 1983 and 1984.

Mr. President, the Senate-passed rec-

onciliation measure included an authorization of appropriations for Head Start for fiscal year 1982 at the 1981 level of $820 million, although the administration has requested $950 million and the Labor and Human Resources Committee has approved the $950 million level in separate reauthorization.

It was anticipated that the House would include the administration's requested level of $950 million in its reconciliation bill; unfortunately, in the haste to prepare the Gramm-Latta substitute, Head Start was omitted entirely. In fact, it was not discovered until days later that Head Start had been left out of the House bill.

I have heard in the last week from numerous Head Start supporters who are deeply concerned about the fate of Head Start as a result of this mishap in the House. The authorization of appropriations for the Head Start program expires at the end of September.

I am deeply concerned that efforts to move a separate reauthorization bill are likely to get bogged down in the legislative process. I do not think we should allow this program to be placed in jeopardy. I think the Senate ought to make very clear its desire to see the Head Start program funded at the level requested by the administration for fiscal year 1982 and its desire to see this matter resolved immediately.

I reiterate that my motion would simply instruct the conferees to include in the conference report provisions authorizing appropriations for the Head Start program at the level requested by the administration for fiscal year 1982 and the levels approved by the Senate and the Labor and Human Resources Committee for fiscal years 1983 and 1984. The latter levels are simply the administration's level for 1982, adjusted for inflation.

I have been advised by the Parliamentarian that it would be within the scope of conference in the Senate for the conferees to agree to this level for fiscal year 1982.

Head Start is, perhaps, the most successful of all programs designed to render help to children from low-income families. I have been a supporter of the Head Start program since I first came to the Senate. As the chairman during the 95th and 96th Congresses of the Child and Human Development Subcommittee, I was deeply involved in matters relating to the Head Start program. I authored the legislation passed in 1978 which continued the authorization of appropriations for Head Start through October of this year and at the beginning of this Congress I introduced legislation, S. 181, to continue the Head Start program for another 5 years. This is an important, effective program that helps break the cycle of poverty at a critical point in the lives of young children. It more than pays for itself by enhancing the lives and the futures of these children and their families.

I strongly urge that this motion be agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I not only have no objection to the motion filed by the distinguished Senator from California and cosponsored by the distinguished Senator from Alabama, but I commend both of them for their initiative in this respect.

Mr. President, I am advised that there is no time remaining for debate on this measure. I think we should provide some time for remarks and comments.

I inquire of the Chair if there is time remaining on this measure.

The PRESIDING OFFICER. All time has expired for consideration of the reconciliation measure and motions relating thereto.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I ask unanimous consent that there be 15 minutes under the control of the majority and minority leaders for further debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield first to the distinguished Senator from Alabama, if he has some remarks. Mine would be of a general nature regarding the budgetary impact.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I thank the Senator from New Mexico.

Mr. President, I am pleased to join the Senior Senator from California, (Mr. CRANSTON) as a cosponsor of his motion to instruct the Senate Conferees on the budget reconciliation bill to insist on the Senate position on the Head Start program and to increase the level of funding from $820 million to $950 million for fiscal year 1982. This motion, in effect, would approve the legislative proposal unanimously reported from the Senate Labor and Human Resources Committee on June 24.

Few in this Chamber are unaware of the accomplishments of the Head Start program over the past 15 years. Since its beginning over 7 million children have benefited. In my opinion, the most significant attribute of the program comes through the recognition and involvement of parents as the key element to the success of the program. Head Start participants consistently score higher on standardized tests of intelligence and general ability; show significant gains in cognitive development and language development; and demonstrate positive long-term effects including improved grades, better test scores and fewer special education placements when parents are involved.

In designating this program as part of the social safety net, the administration also endorses the increased funding level and the consideration of this proposal as part of the reconciliation package.

This motion is most timely because it will allow the Appropriations Committee to take prompt action for the upcoming fiscal year 1982 appropriation at the authorization level recommended by the President without waiting for a possible prolonged reauthorization process on the Senate and House floors. It is my understanding that the House bill might run into particular difficulty because it includes a reauthorization of the Community Services Administration.

I would like to commend Senator CRANSTON for his efforts to insure the continuation of this valuable program. During my brief tenure as chairman of the subcommittee which has jurisdiction over the Head Start program, I have learned much from the record he established while he was the chairman. I have come to appreciate the strengths of this program and without reservation I urge my colleagues to support it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 1 minute.

Mr. President, I commend the Senator from California and the distinguished junior Senator from Alabama for bringing this matter to the Senate's attention and for the way they have done it. It is obvious that we are not going to let Head Start suffer. The President of the United States has requested funding at the level included in this instruction. Through some kind of oversight as a part of the reconciliation, this authorizing level was not included in the House bill. That would not have conclusively harmed the program but it would have required that we have an authorization bill clear both Houses.

As it is now, we have the matter in our bill. It is my understanding that this will raise the level to that requested by the President. I think we should do it.

My advice to the majority leader is that we accept it. I commend the Senators and have no objection as far as the Budget Committee is concerned.

Mr. MOYNIHAN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, do I have control of the time under the order?

The PRESIDING OFFICER. The Senator from West Virginia controls the time.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. MOYNIHAN such time as he may require and to Mr. CRANSTON.

Mr. MOYNIHAN. I thank the minority leader.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask that my name be added as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I was a member of the task force that drew up the original poverty program and Head Start program.

I would like to comment on the statements of our distinguished chairman of the Budget Committee that it is obvious that this was an oversight and ask what is in this legislation, what is being left out of this legislation that is not obvious?

In the history of this body, there cannot have been so chaotic an enterprise

as the reconciliation procedures of the past month.

I have introduced in this body a resolution which declares it to be the sense of the Senate that no bill will be engrossed or enrolled which a majority of the Members present and voting cannot attest to having read. I have not had any very strong response as yet, but here is just the most recent instance of the not altogether nongermane nature of the proposal.

Mr. BAKER. Mr. President, is there time remaining?

The PRESIDING OFFICER. There is time remaining on both sides.

Mr. BAKER. Mr. President, I am prepared to yield back the time on this side.

Mr. CRANSTON. Mr. President, will the minority leader yield me just 1 minute?

Mr. ROBERT C. BYRD. Mr. President, I yield all time under my control to Mr. CRANSTON.

Mr. CRANSTON. Mr. President, I wish to thank Senator DENTON for his effective work with me on this matter. It is a pleasure to work with him. I thank the majority leader for his cooperation and support. I thank Senator DOMENICI for his contribution. It is important to have the chairman of the Budget Committee working with us as it is to have the majority leader. And I thank Senator MOYNIHAN for his helpful contribution. I know of his great concern about issues like the one that we are dealing with here.

● Mr. CHILES. Mr. President, I am pleased to join in introducing this motion to instruct the reconciliation bill conferees to bring back a bill which reauthorizes the Head Start program at the level of $950 million for fiscal year 1982, instead of the $820 million level included in the Senate-passed bill.

Head Start is one of the most critical of our programs to provide equal educational opportunity for poor children. It provides a comprehensive set of educational services to disadvantaged preschool age children, so that they can enter school with basic skills and orientations equivalent to those acquired at home by middle-class children.

Getting poor children off to a good start in school is critical to assuring them the opportunity, when they become adults, to be fully participating members of the economy. As our economy becomes more complex, and as we undertake to upgrade our technology to improve our productivity, higher levels of education are necessary for our work force. We have learned over the years that good education begins in the earliest years, and Head Start provides educational beginning for poor children.

The $950 million funding level we are seeking here was assumed in the budget resolution, and it is the full amount requested by President Carter. President Reagan has endorsed that request.

This funding level will allow the program to continue serving over 366,000 children in full-year projects. Of the $130 million increase over the 1981 funding level, $78 million will be used to offset higher operating costs, and $52 million will be used to restore or upgrade the quality of program operations in some key areas where inflation has eroded services in the last few years. I think a clear measure of the success of this program is that while it employs 73,000 full-year staff, it also enlists the help of 494,000 volunters, almost seven times the number of paid staff. That demonstrates to me that the residents of the communities where Head Start operates recognize its importance and are willing to give their time and effort to keep it going.

I hope this motion will be agreed to, so that the parents and poor children who depend on the Head Start programs can get a clear signal that we are going to provide adequate funding.●

Mr. BAKER. Mr. President, I yield back my time.

Mr. CRANSTON. I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I ask that the Chair name the conferees on behalf of the Senate.

APPOINTMENT OF CONFEREES

The PRESIDING OFFICER. Pursuant to the order granted yesterday, the Chair appoints the following conferees on the part of the Senate:

From the Committee on the Budget: Mr. DOMENICI, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. HOLLINGS, Mr. CHILES, and Mr. BIDEN;

From the Committee on Agriculture, Nutrition, and Forestry, for matters within their jurisdiction: Mr. HELMS, Mr. HAYAKAWA, Mr. LUGAR, Mr. COCHRAN, Mr. HUDDLESTON, Mr. LEAHY, and Mr. ZORINSKY;

From the Armed Services Committee for matters within their jurisdiction: Mr. TOWER, Mr. HUMPHREY, Mr. JEPSEN, Mr. EXON, and Mr. LEVIN;

From the Banking, Housing, and Urban Affairs Committee for matters under their jurisdiction: Mr. GARN, Mr. HEINZ, Mr. LUGAR, Mr. PROXMIRE, and Mr. RIEGLE;

From the Commerce, Science, and Transportation Committee for matters within their jurisdiction: Mr. PACKWOOD, Mr. GOLDWATER, Mr. SCHMITT, Mr. CANNON, and Mr. INOUYE;

From the Energy and Natural Resources Committee for matters within their jurisdiction: Mr. MCCLURE, Mr. HATFIELD, Mr. WALLOP, Mr. JACKSON, and Mr. JOHNSTON;

From the Environment and Public Works Committee for matters within their jurisdiction: Mr. ABDNOR, Mr. STAFFORD, Mr. CHAFEE, Mr. SYMMS, Mr. RANDOLPH, Mr. MOYNIHAN, and Mr. MITCHELL;

From the Finance Committee for matters within their jurisdiction: Mr. DOLE, Mr. DANFORTH, Mr. CHAFEE, Mr. LONG, and Mr. HARRY F. BYRD, JR.

From the Foreign Relations Committee for matters within their jurisdiction: Mr. PERCY, Mr. MATHIAS, Mrs. KASSEBAUM, Mr. PELL, and Mr. BIDEN;

From the Governmental Affairs Committee for matters within their jurisdiction: Mr. ROTH, Mr. STEVENS, Mr. MATHIAS, Mr. EAGLETON, and Mr. PRYOR;

From the Judiciary Committee for matters within their jurisdiction: Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. BIDEN, and Mr. DECONCINI;

From the Labor and Human Resources Committee for matters within their jurisdiction: Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. NICKLES, Mr. DENTON, Mrs. HAWKINS, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. EAGLETON, and Mr. METZENBAUM;

From the Small Business Committee for matters within their jurisdiction: Mr. WEICKER, Mr. BOSCHWITZ, Mr. HAYAKAWA, Mr. NUNN, and Mr. BUMPERS;

From the Veterans' Affairs Committee matters within their jurisdiction: Mr. SIMPSON, Mr. KASTEN, Mr. MURKOWSKI, Mr. CRANSTON, and Mr. RANDOLPH;

From the Select Committee on Indian Affairs for matters within their jurisdiction: Mr. COHEN, Mr. ANDREWS, Mr. GORTON, Mr. MELCHER, and Mr. INOUYE.

Mr. HATCH. Mr. President, the reason for six Republicans and five Democrats serving for the Senate Labor and Human Resources Committee is because of the wide variety of programs under our jurisdiction. Senator KENNEDY and I have agreed to vote three Republicans to two Democrats on all miniconference issues. On final adoption of our portion of reconciliation we will vote six Republicans and five Democrats.

Mr. BAKER. Mr. President, I should like to take a moment this morning to commend my colleagues who chair their respective committees in the Senate, for their forthright and constructive contributions to the budget reduction effort last Friday.

Our initiatives in this Chamber over the past 7 months have been both challenging and demanding. I believe that we have been and will continue to be equal to the task. I also believe that now is not the time to let up. We must continue to pursue and produce the best possible achievements for our country.

As I have stated on so many occasions on this floor and elsewhere, the proposed spending cuts in our Nation's budget are quintessential to the economic recovery which we are all pledged to.

To a degree unprecedented in recent years, we have been fortunate enough to join in partnership with our President and chart a common course. I view this relationship with the White House as one of the most rewarding facets of my position as majority leader.

With that in mind, I believe our decision to sit down with our friends in the House and iron out minor differences in next year's budget will prove to be of great service to our Nation.

Working with the White House, we

have launched one of the most impressive legislative agendas in this century. Our actions have been deliberate and responsible, and I expect that the reconciliation process will be looked back upon as an exemplary effort in which we can all take pride.

What we are embarking on with our colleagues in the House, is a journey toward betterment. Both the Senate and the House versions of the budget proposal reflect the same philosophical considerations. The need for abating the limitless expenditures of the past is clear.

Budget analysis is a highly technical and time-consuming procedure. It is usually born from necessity, and raised under urgency. It is no simple matter.

Subsequently, what now remains to be done is some fine tuning, in order to give the American people the best possible bill. I applaud the efforts of the distinguished Senator from New Mexico (Mr. DOMENICI) and thank him and the Budget Committee staff for their tireless efforts. Their work was not done in vain. It will become part of a great blueprint for getting our economy on the right track again.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1562. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Military Contractor-Operated Stores' Contracts Are Unmanageable and Vulnerable to Abuse"; to the Committee on Armed Services.

EC–1563. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, notification of a determination by the Department to exclude the clause providing for examination of records by the Comptroller General from a certain proposed contract; to the Committee on Armed Services.

EC–1564. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notification of a decision made to convert the guard services at Fort Bliss, Tex., to performance under contract; to the Committee on Armed Services.

EC–1565. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notification of a decision made to convert the combined maintenance/motor vehicle operations activity at the U.S. Military Academy, West Point, N.Y., to performance by contract; to the Committee on Armed Services.

EC–1566. A communication from the Secretary of Transportation transmitting, pursuant to law, the annual report on activities under the Emergency Rail Services Act and an evaluation of the financial condition of railroads having outstanding certificates guaranteed under the act; to the Committee on Commerce, Science, and Transportation.

EC–1567. A communication from the Secretary of Transportation, transmitting pursuant to law, a report on the financial conditions and operations of the Railroad Rehabilitation and Improvement Fund and the Obligation Guarantee Fund; to the Committee on Commerce, Science, and Transportation.

EC–1568. A communication from the chairman of the Board and the President and Chief Executive Officer, respectively, of the U.S. Railway Association, transmitting, pursuant to law, the final annual report of the association on the performance of Conrail; to the Committee on Commerce, Science, and Transportation.

EC–1569. A communication from the Acting Administrator of the National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a report on the status of negotiations relating to a system for the protection of interim investments in deep seabed mining; to the Committee on Commerce, Science, and Transportation.

EC–1570. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Limited Progress Made in Consolidating Grants to Insular Areas"; to the Committee on Energy and Natural Resources.

EC–1571. A communication from the Secretary of the Federal Trade Commission transmitting, pursuant to law, the annual report of the Commission on the impact of the international energy program on competition and on small business; to the Committee on Energy and Natural Resources.

EC–1572. A communication from the Director of the Office of Management and Budget transmitting additional language to original draft of proposed legislation entitled "Debt Collection Act of 1981"; to the Committee on Government Affairs.

EC–1573. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Gains and Shortcomings in Resolving Regulatory Conflicts and Overlaps"; to the Committee on Governmental Affairs.

EC–1574. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Internal Control Weaknesses Contributed to the Mismanagement and Misuse of Federal Funds at Selected Community Action Agencies"; to the Committee on Governmental Affairs.

EC–1575. A communication from the Director of ACTION, transmitting, pursuant to law, a copy of a regulation on trainee deselection and early termination procedures; to the Committee on Labor and Human Resources.

EC–1576. A communication from the Special Assistant to the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from small and other business firms for the period October–December 1980; to the Committee on Small Business.

EC–1577. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on progress made in implementing of Public Law 96–481, title IV, section 301—Small Business Export Expansion Assistance; to the Committee on Small Business.

EC–1578. A communication from the Assistant Secretary of the Army (civil works), transmitting a draft of proposed legislation to amend the National Cemeteries Act of 1973, to rescind the requirement that the superintendent positions of national cemeteries under the jurisdiction of the Secretary of the Army be limited to disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–315. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Armed Services:

"Whereas, 1981 marks the 38th anniversary of the U.S.S. Wasp CV–18, the ninth ship of the United States Navy to bear the distinguished name of her predecessors, since the first Wasp was commissioned over 200 years ago as one of the first two vessels in the Continental Navy; and

"Whereas, The Wasp, nicknamed the "Stinger", gained a brilliant record in combat against the enemy, downing 230 Japanese planes by airmen, 16 enemy planes by ship guns, 411 enemy planes on the ground, sinking 52 enemy ships and damaging 305 enemy ships; and

"Whereas, those who lived and died valiantly defending their ship and their country, fought honorably and heroically true to the tradition of their ship's name, to the Navy, and the United States of America; and

"Whereas, in tribute to those who served, the next nuclear powered aircraft carrier should bear the name U.S.S. Wasp, thereby memorializing a record of distinguished service for 200 years; therefore be it

"*Resolved*, That the Massachusetts House of Representatives hereby urges the Congress of the United States to enact legislation designating the next nuclear powered aircraft carrier the U.S.S. Wasp; and be it further

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress, and to the Members thereof from this Commonwealth, and the Secretary of the Navy."

POM–316. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION

"Whereas, A worker who chooses to retire at the age of 62 years currently receives 80% of the pension to which he is entitled should he retire at age 65, yet President Ronald Reagan proposes that a retiring 62 year old worker receive 55% of his full pension; and

"Whereas, The net effect for those contemplating early retirement is a choice between two unattractive alternatives: viz. either stay on the job until age 65 or rely on their life savings; and

"Whereas, Early retirement is a goal of millions of Americans and President Reagan's proposal will jeopardize long years of hard work and careful retirement planning; and

"Whereas, the 31 million retirees who currently receive social security checks will lose their cost of living increases in the third fiscal quarter of this year, which will cost them 4 billion dollars; and

"Whereas, in the Commonwealth of Massachusetts there are 650,000 men and women over 65 years of age and approximately 95% of those individuals receive social security benefits; and

"Whereas, we have 1,000,000 men and women over 60 years of age, of which number, some 350,000 are between the range of 60 to 65 years of age and approximately 100,000 of these individuals receive social security benefits; and

"Whereas, as social security benefits are based on wages earned, women are severely discriminated against. Throughout this century, up to present day, women employees have historically earned substantially less than their male counterparts even though they held the same job and performed the same work duties. Though it is now unlawful to discriminate in this fashion, it will take approximately 30 to 40 years for the social security system to catch up. Cuts in their

benefits would be felt much more so than the male retiree; and

"Whereas, another instance of discrimination is the homemaker. If the wife's husband dies, the wife does not receive the same dollar amount of her husband's social security benefit, but rather a much smaller percentage of the total; and

"Whereas, said proposal, if passed, would reduce, in real dollars, benefits for those employees who retire either at age 62 or 65, for, while the average retiree currently receives approximately $41 for every $100 earned while working, under the President's plan, workers who retire after January of 1987 will receive 38% of pre-retirement income; therefore be it

"Resolved, that the Massachusetts house of representatives hereby urges the Congress of the United States to reject President Reagan's proposal to reduce social security benefits; and be it further

"Resolved, that a copy of these resolutions be forwarded by the clerk of the house of representatives to the presiding officer of each branch of the Congress and the members thereof from this commonwealth."

POM-317. A resolution adopted by LaSociete des 40 Hommes et 8 Cheveaux du Iowa, opposing any reduction in the social security death benefit; to the Committee on Finance.

POM-318. A resolution adopted by the Massachusetts Conference of the United Church of Christ calling for a reduction of nuclear arms by the United States, to the Committee on Foreign Relations.

POM-319. A resolution adopted by the La Societe des 40 Hommes et 8 Cheveaux du Iowa, opposing reductions in certain Veterans' benefits; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry;

Special report entitled "Allocation of Budget Totals for Fiscal Years 1981 and 1982" (Rept. No. 97-152).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S.J. Res. 42. Joint resolution to designate the third Sunday in September as "National Ministers Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 78. Joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

S.J. Res. 92. Joint resolution to authorize and request the President to designate the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Daniel K. Hedges, of Texas, to be United States Attorney for the Southern District of Texas, for the term of four years;

Sarah Evans Barker, of Indiana, to be United States Attorney for the Southern District of Indiana, for the term of four years;

Rex. E. Lee, of Utah, to be Solicitor General of the United States; and

Edward C. Prado, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 1468. A bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Select Committee on Indian Affairs.

By Mr. STEVENS:

S. 1469. A bill to amend the Internal Revenue Code of 1954 to provide for an investment tax credit for theatrical productions; to the Committee on Finance.

By Mr. HEFLIN:

S. 1470. A bill for the relief of Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer; to the Committee on the Judiciary.

By Mr. HUDDLESTON (for himself and Mr. ROTH):

S. 1471. A bill to amend the Internal Revenue Code of 1954 to redefine individuals eligible for the earned income credit, and for other purposes; to the Committee on Finance.

By Mr. DENTON:

S. 1472. A bill to amend the Internal Revenue Code of 1954 to exclude the value of certain research and experimental expenditures from the aggregate face amount of certain small issues of industrial development bonds; to the Committee on Finance.

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 1473. A bill for the relief of the Jefferson County Mental Health Center, Incorporated, and of certain current and former employees thereof; to the Committee on Finance.

By Mr. QUAYLE:

S. 1474. A bill to continue the operation of the Defense Department's education system in the Department of Defense; to the Committee on Armed Services.

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1475. A bill to amend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself and Mr. ANDREWS):

S. 1476. A bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1477. A bill to require the Secretary of Labor to submit an annual report on child day care services; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mrs. HAWKINS, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1478. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for expenses for household and dependent care services necessary for gainful employment, to provide a credit for employers who provide such services, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1479. A bill to amend the Internal Revenue Code of 1954 to exclude from the income of an employee certain adoption expenses paid by an employer, to provide a deduction for adoption expenses paid by an individual, and for other purposes; to the Committee on Finance.

S. 1480. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of foster children as dependents of taxpayers; to the Committee on Finance.

S. 1481. A bill to amend title II of the Social Security Act to eliminate gender-based distinctions under the old-age, survivors, and disability insurance program; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. WEICKER):

S. 1482. A bill to amend certain provisions of the Act of May 27, 1970, to provide a procedure for determining whether a plan for the Federal Government to participate in an international exposition should include construction of a Federal pavilion, whether such Federal pavilion should be a permanent structure, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 1468. A bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Select Committee on Indian Affairs.

LAND DESIGNATED TO THE BURNS PAIUTE TRIBE

● Mr. HATFIELD. Mr. President, I am introducing legislation today that will designate a parcel of land in Harney County, Oreg., to be held in trust for the Burns Paiute Tribe pursuant to Federal law (25 U.S.C. 373b). This bill is primarily of a technical nature as it will fulfill the requirements of 25 U.S.C. 373b which provides that parcels of land, where the value of the land exceeds $2,000 and the allottee dies without legal heirs, shall be held in trust by the United States for such Indians as Congress may designate.

This bill addresses a matter that arose in Harney County, Oreg., where a Burns Paiute Indian named Jesse T. James died on January 12, 1978 without heirs or a will. At the time of his death, he was the sole owner of 160 acres of trust land in Harney County, land which is classified as a "public domain allotment." The proposed legislation is needed to clear up this matter, as well as comply with Federal law.

The Burns Paiute Tribe has occupied the southeast corner of the State of Oregon for the last 8,000 years. In 1868 representatives of the Federal Government negotiated a treaty with the tribe to end hostilities between the tribe and the growing influx of white settlers. That treaty, however, was never ratified by the Senate.

Instead, President Ulysses S. Grant established a reservation comprising approximately 1,778,560 acres by executive orders in 1872, 1875, and 1876. Not less than 10 years later the reservation was cancelled by executive orders in 1882, 1883, and 1889, and the land converted to the public domain. The Paiutes were compensated for the taking of this land

in 1959 by the Indian Claims Commission, which awarded each Indian 40 cents an acre for the loss of their aboriginal lands.

In 1887 Congress passed the General Allotment Act, which intended to assimilate Indians into the non-Indian culture. Each "allottee" was given a 160-acre allotment of reservation or public domain land, with the title to the land held in trust by the United States. In 1896 and 1897, 115 allotments were created out of the public domain near Burns, Oreg., for the Paiutes, totaling 17,541.96 acres. After an aggressive policy of attempting to end the restricted status of these allotments, many of these were sold to non-Indians, with less than 70 allotments in the Burns area remaining in Indian hands, totaling approximately 11,000 acres.

Federal law governs the probate disposition of allotments. Congress enacted 25 U.S.C. 373b in 1942 to address this matter. That law states that such allotments "be held in trust for such needy Indians as the Secretary may designate, where the value of the estate does not exceed $2,000, and in the case of estates exceeding such sum, such estates shall be held in trust by the United States for such Indians as the Congress may designate."

In the case of the allotment covered by the bill I am introducing today, the value of the allotment exceeds $9,000. Thus, under 25 U.S.C. 373b, Congress must designate what Indians shall receive this property. During hearings on this matter before the Board of Hearings and Appeals in the Bureau of Indian Affairs, the board stated, "based on the record before the board, and following a full opportunity for individual Indians and Indian groups to state a claim to the property at issue, the board has no reservation stating that were it within its authority to decree, it would allow the Indian Joe allotment—Jesse T. James estate—to go to the Burns Paiute Tribe, rather than reverting to the public domain or being conveyed to other Indians."

The present Burns Paiute reservation comprises 770 acres and the tribe hopes to use this allotment for economic development to enable it to become more self-sufficient. By utilizing the land for agricultural purposes, the tribe hopes to increase its income, reduce its dependence upon the Bureau of Indian Affairs and provide employment for tribal members and residents of the area. To that end, this legislation would designate this parcel of land to be held in trust for the Burns Paiute Tribe. An action which is supported by the record accumulated before the Board of Hearings and Appeals of BIA.

In addition, to avoid subsequent action of this nature, the legislation introduced today would also provide that future public domain allotments that fall under this same situation would go directly into trust for the tribe. The utilization of 25 U.S.C. 373b is rare, having been used only once before, but by including this provision in the proposed legislation administrative efficiency is promoted. In the future when this situation occurs, the Secretary of the Interior would designate that these allotments go to the tribe, thereby avoiding the need for Congress to be involved in this process.

In closing, I urge expeditious action on this matter by the Congress as the Burns Paiute Tribe will be greatly benefited by the development of this allotment.●

By Mr. STEVENS:

S. 1469. A bill to amend the Internal Revenue Code of 1954 to provide for an investment tax credit for theatrical productions; to the Committee on Finance.

THEATRICAL PRODUCTION INVESTMENT TAX CREDIT ACT OF 1981

Mr. STEVENS. Mr. President, today I am pleased to introduce a bill which will amend the Internal Revenue Code of 1954 extending the investment tax credit to theatrical productions.

This bill is identical to S. 2500 that was introduced in the last Congress and was the subject of hearings before the Senate Subcommittee on Taxation and Debt Management on May 30, 1980.

The Theatrical Production Investment Tax Credit Act of 1981 extends the investment tax credit to live commercial theatrical production. Provisions of this bill closely parallel those which were included in the Tax Reform Act of 1976 that extended the investment tax credit to qualifying production costs in the motion picture industry. The Theatrical Production Investment Tax Credit Act of 1981 will provide tax credit to persons to invest in productions of the commercial theatre.

This credit will provide an effective incentive to the performing arts industry while minimizing direct Government funding in this area. Under the provisions of this bill the investment tax credit will be allowed with respect to production costs if such costs constitute new section 38 property. Each taxpayer's share of the credit will be limited to their ownership interest in the theatrical production.

The investment tax credit was designed to spur investment and create new employment opportunities.

The theatrical industry badly needs the stimulus of an investment tax credit. Fewer new plays are being produced each year in commercial theatres. To a great extent, the decline in theatrical productons over the last few years can be traced to skyrocketing production costs. The play must run for months, if not a year, if the investors are to recoup production costs; yet four out of five productions lose money. The investment tax credit will help abate the deterrent to invest in new productions.

Theatre is an important component of American culture. The theatre industry provides a valuable cultural resource that attracts corporations and their employees to locate near the city environment.

The cost of the Treasury for this measure is extremely small. The Joint Tax Committee estimate for last year's bill determined that the Theatrical Production Investment Tax Credit Act will reduce budget receipts by only $5 million annually. This is certainly a small price to pay for encouraging investors to participate in theatrical productions that will have such a significant effect on the American artistic community.

I urge consideration of this measure.

By Mr. HUDDLESTON (for himself and Mr. ROTH):

S. 1471. A bill to amend the Internal Revenue Code of 1954 to redefine individuals eligible for the earned income credit, and for other purposes; to the Committee on Finance.

TAX SUBSIDIES FOR ILLEGEAL ALIENS

● Mr. HUDDLESTON. Mr. President, on April 15 millions of Americans completed their tax returns for 1980 and in the process paid an unprecedented amount of taxes. Hundreds of billions of dollars in income taxes have been paid into a tax system which is the largest in the world and which functions primarily upon the voluntary compliance of the American taxpayer.

Unknown to most taxpayers, large numbers of illegal aliens also rushed to get their income tax return filed. However, a substantial number of illegal aliens who file income tax returns are using the earned income tax credit to either reduce their taxes or to receive a refund on taxes that were never paid.

In 1975, Congress passed a tax bill which created a new concept in tax law: the earned income tax credit. This credit was intended to provide some tax relief for low-income workers who have dependent children. The underlying rationale for the credit was that it would offset the impact of social security taxes and encourage individuals to find employment.

Under this law, the worker is entitled to a 10-percent tax credit for the first $5,000 in earned income; the credit is phased out when adjusted gross income reaches $10,000. The most expensive feature of this law is its refundable aspect. If the worker owes taxes which are less than the credit, the excess of the credit will be paid to him or her by the Government as an "overpayment." In 1979 about 9 million individuals qualified for the earned income tax credit, which cost the Federal Treasury approximately $2.1 billion. Of this amount, $1.4 billion was attributable to the refundable aspect of the law.

There is compelling new evidence that illegal aliens are using the earned income tax credit in order to reduce taxes or to secure refunds from the Government even though they do not pay any taxes. A new study just released by David North, director of the Center for Labor and Migration Studies at the New Trans-Century Foundation, concluded that nearly a third of those with refunds secured EITC payments. Furthermore, they had larger average EITC payments and larger refunds than Americans generally.

The study states that part of the study group of 17 individuals received EITC payments totaling $19,637 and that this resulted in a mean payment of $302. If we assume a very conservative number of 3 million illegal alien workers in the United States, this would result in EITC payments of about $120 million. The 3

million assumption is conservative, because even the U.S. Bureau of the Census admits that there could be as many as 6 million illegal aliens in the country and other reliable sources believe there could be as many as 12 million.

According to a letter from the acting commissioner of IRS, illegal aliens can qualify under the law for the EITC and they use the earned income tax credit. In order to prevent this continued misuse of the EITC, I am introducing a bill today which limits eligibility for the EITC to a citizen of the United States or an alien individual who has been admitted to the United States as a permanent resident.

It is ironic that an earned income tax credit primarily meant to encourage low-income individuals to work instead serves to limit employment opportunities for them. Even though we have about 8 million unemployed people in the country today, this provision is an added incentive to enter the United States to take jobs from American citizens. In effect, the Federal Government is paying illegal aliens to take American jobs, at a time when the administration is reducing unemployment benefits and jobs programs.

To believe that this is not a widespread problem would be to ignore what we have learned in the past about the speed with which illegal aliens catch on to the loopholes in our tax laws. The IRS has established through experience that illegal aliens learn very quickly how to beat the tax collector. Between 1976 and 1978 the IRS conducted a pilot program in which it interviewed apprehended illegal aliens to determine whether they had outstanding tax liabilities. This program was dropped because the illegal aliens quickly learned how to get around it. In a letter to me dated January 4, 1980, the Director of the Collection Division at the IRS stated:

An awareness of the program developed within the Mexican illegal alien community which comprised the majority of apprehended illegals. The Mexican press publicized the fact that illegals caught with money were subject to being interviewed by IRS, and the word evidentally spread. Consequently, when Mexican illegals were picked up, they had little or no money, but numerous postal money order stubs from payments they had apparently sent back to their families in Mexico.

In essence the Director admitted that even though the IRS found that many of the apprehended illegal aliens did in fact owe Federal income taxes, there was no way to collect, since the illegals learned very quickly to send most of their money out of the country as soon as possible.

There is further evidence that illegal aliens learned quickly of other methods of avoiding Federal income taxes. The IRS published a manual which was used by its own agents for the tax collection program aimed at illegal aliens. In this manual was a section entitled "Practices to Avoid Taxes" which stated:

(1) Assigned personnel should be aware of practices utilized by some illegal aliens and their employers to avoid their Federal tax obligations.

Many aliens also claim excessive exemptions, since they are aware that by doing so they will receive larger take-home amounts.

This manual states conclusively that many illegal aliens are deliberately falsifying their tax returns and W–4 forms. The result is that if an illegal alien does not bother filing a tax return before he returns home, he in effect takes the uncollected, nonwithheld taxes with him. If he does file a return, he pays little or no taxes because of the excessive number of exemptions. Under the latter method he also increases the amount of the refundable earned income tax credit.

Although the amounts involved in each individual case may be relatively small, they are very substantial if several million illegal aliens are in fact manipulating the tax system. The earned income tax credit alone cost the Federal Government over $2 billion in 1979. Further, we should not forget that the Congressional Budget Office has determined that each one percentage point increase in unemployment costs the Federal Treasury $29 billion every year. Any program which encourages illegal aliens to take jobs in this country will result in a substantial indirect cost by increasing our unemployment rate.

Mr. President, at the present time most Americans are paying more in taxes but are being told they will receive less in benefits for those taxes. In the near future we may be able to reduce this inequity for many taxpayers by passing a substantial tax reduction bill. I think that it would be very appropriate to pass along hundreds of thousands of dollars of savings now by denying the use of the EITC to illegal aliens. The EITC was intended to encourage Americans to find jobs, not to recruit illegal aliens.

I ask unanimous consent that chapter 7 of Mr. North's study entitled "Government Records: What They Tell Us About The Role of Illegal Immigrants in The Labor Market and In Income Transfer Programs" be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CHAPTER SEVEN: THE STUDY GROUP AND THE INCOME TAX

The Internal Revenue Service was able to trace 517 members of the study group through its data systems. It found (to its surprise) that 355 of them, or 68.8 percent had filed one or more income tax returns.

The distribution among the three subpopulations was predictable; walkins were the most likely to file at least once (85 percent), the mainstream aliens were next (68 percent), and the introubles came in last (57 percent).

As Table 7–1 indicates, some members of the study group were filing returns as early as 1966 (nine years before their encounter with INS), and many of them were still doing so for 1979. The peak year was 1974, as it was in the SSA earnings data.

It should be noted that, while filing an income tax return is required by the law (for those with incomes above a rather low cutoff level) and is a commendable civic exercise, it is also an act that is usually rewarded, subsequently, with the delivery of a check. Most Americans find that their employers withhold more than the tax liability. In most years, about seven out of nine return filers receive refunds. This combination of motivations must have inspired the members of the study group as it does other taxpayers.

Table 7–2 provides 1979 data on the three subpopulations in our study group regarding tax liability, withholdings, refunds, and Earned Income Tax Credits (EITC). A total of 226 of the study group members filed returns, and 204 of them were rewarded with refunds. Nearly a third of those with refunds secured EITC payments. Comparing the three subpopulations, one finds the expected pattern, with the largest tax liability being recorded by the walkins, the next by the mainstream aliens, and the least by the introubles.

Members of the study group on average have lower levels of tax liability and withholdings than American taxpayers generally, reflecting below-average incomes as Table 7–3 shows. For the same reasons, the study group members had larger average EITC payments and larger refunds than Americans generally.

Balance sheet: In 1979 members of the study group had a combined tax liability to IRS of $229,556 and received $96,795 in refunds and $19,637 in EITC payments for a total of $116,432.

TABLE 7–1.—INDIVIDUAL INCOME TAX FILINGS OF THE 3 SUBPOPULATIONS IN THE ILLEGAL IMMIGRANT STUDY GROUP, 1966–79

Data item	Mainstream		Walkin		In trouble	
	Number	Percent	Number	Percent	Number	Percent
SSN's on masterfile	405	100.0	61	100.0	51	100.0
Record of filing	274	67.7	52	85.2	29	56.9
No record of filing	131	32.3	9	14.8	22	43.1
Filings by year:						
1966	9	2.2			2	3.9
1967	11	2.7			2	3.9
1968	14	3.5			2	3.9
1969	22	5.4	2	3.3	2	3.9
1970	36	8.9	8	13.1	5	9.8
1971	67	16.5	16	26.2	10	19.6
1972	98	24.2	18	29.5	16	31.4
1973	138	34.1	32	52.5	22	43.1
1974	210	51.9	39	63.9	23	45.1
1975	195	48.1	36	59.0	17	33.3
1976	178	44.0	30	49.2	19	37.3
1977	183	45.2	32	52.5	18	35.3
1978	188	46.4	34	55.7	19	37.3
1979	180	44.4	29	47.5	17	33.3

Source: Unpublished IRS tabulations.

TABLE 7-2.—COMPARISON OF TAX DATA ON THE 3 SUBPOPULATIONS IN THE ILLEGAL IMMIGRANT STUDY GROUP, 1979

Data item	Mainstream			Walkin			In trouble		
	Total	Number	Average	Total	Number	Average	Total	Number	Average
Tax liability	$154,681	123	$1,258	$64,238	26	$2,471	$10,637	17	$626
Withholding	215,936	170	1,270	66,793	27	2,474	21,602	17	1,271
Earned income tax credit	16,210	54	300	1,443	4	361	1,984	7	283
Refunds [1]	90,384	164	551	13,847	23	602	12,201	17	718
Filings		180			29			17	

[1] Includes earned income tax credit. Source: Unpublished IRS tabulations.

TABLE 7-3.—COMPARISON OF STUDY GROUP TAX RETURNS WITH THOSE OF U.S. TAXPAYERS, 1978 AND 1979

Data item	Members of study group (mean)	U.S. taxpayers (mean)
Tax liability	$1,383	$2,742
Withholding	1,422	2,172
Earned income tax credit	302	202
Refunds [1]	571	500

[1] Includes earned income tax credit.
Note: Study group data are for 1979; data for U.S. taxpayers for 1978.

Source: Unpublished IRS tabulations.●

By Mr. DENTON:

S. 1472. A bill to amend the Internal Revenue Code of 1954 to exclude the value of certain research and experimental expenditures from the aggregate face amount of certain small issues of industrial development bonds; to the Committee on Finance.

RESEARCH AND DEVELOPMENT TAX EXEMPTION

● Mr. DENTON. Mr. President, I am today introducing legislation to remove a needless and unjustified obstacle to the carrying out of research and development activities by companies using tax-exempt industrial development bond financing. Specifically, my bill would permit research and development costs to be treated for purposes of the so-called "small-issue exemption" for industrial development bonds in the same manner as they are treated elsewhere in the Internal Revenue Code, as expensable items rather than capital costs.

The "small-issue exemption" of section 103(b)(6) of the code permits localities to provide tax-exempt financing for businesses within their jurisdictions. Under this exemption, a business may not have more than a total of $10 million in capital expenditures within the bond-issuing jurisdiction in the 6-year period beginning 3 years prior to the issue date. The $10 million cap applies to all of a company's capital expenditures in that 6-year period, whether or not the specific expenditure was financed with the proceeds of an IDB.

Section 174 of the code expressly permits research and experimentation costs to be expenses for most tax purposes. The Internal Revenue Service, however, has held that expenses for research are capital expenditures within the meaning of the industrial development bond provision. In other words, because of section 174, research and development costs are generally permitted to be treated as expenses, except if considered in the IDB context, in which case they must be treated as capital expenditures.

This rule has had unfortunate consequences for research by American industry. Those companies which build, renovate or expand their facilities through the use of IDB's must avoid or curtail their research expenditures for a 6-year period in order to stay within the $10 million limit. Even more seriously, the small, high technology firms that are on the cutting edge of this Nation's innovation and productivity, are effectively denied the advantages of tax-exempt financing. For if a firm spends a large share of its budget on research and development, it cannot afford to finance its capital facilities—land, plant, and equipment—through an industrial development bond.

In addition to its adverse impact on research, the current rule needlessly compounds the bureaucratic burden upon businesses. While section 174 was intended to end the need for companies to separate their research and development capital expenses from normal operating expenses, and avoid repeated audits and challenges on this point, the IDB rule raises these problems all over again. A business which uses an industrial development bond must analyze all of its expenditures in the preceding 3 years, separating out research, and must segregate research expenditures for the subsequent 3 years as well. And because this determination can always be challenged, the bond issue's tax exemption will be uncertain.

My bill would correct this situation, by providing that research and experimental costs which are treated as expenses for the purposes of section 174 may also be expenses for the purposes of the small-issue exemption under section 103(b)(6). By doing so, the bill will provide uniform treatment for research and development expenses in the code, and avoid the uncertainty and unnecessary accounting problems created by the present IRS position. The bill will permit firms which use IDB financing to carry out normal research and experimentation activities, and it will permit those high technology firms which depend heavily on research and innovation to benefit from tax-exempt financing.

To assure an immediate beneficial impact, the bill would apply to research and development expenditures by companies already operating under IDB's, as well as to expenditures under new bond issues. The provision would not be retroactive, validating bond issues that have already been ruled taxable. But it would remove the disincentive to research and development activities by companies using IDB's as of its effective date.

The bill's revenue impact will be negligible. The research and development expenditures to which it would apply cannot themselves be funded out of the proceeds of an industrial development bond issue. IDB's basically can only fund capital costs for plant and equipment. Thus the number and size of IDB issues should not increase significantly. However, this valuable low-cost financing tool will not be denied to those companies which help to advance American technology and industry solely because of their high research costs.

Mr. President, in the context of President Reagan's tax proposals, the Congress is considering a number of measures to promote research and development and encourage small business. The bill I am introducing today would accomplish both of these important objectives at an insignificant loss of tax revenues.●

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 1473. A bill for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof; to the Committee on Finance.

JEFFERSON COUNTY MENTAL HEALTH CENTER

● Mr. HART. Mr. President, I am introducing today, on behalf of myself and my colleague, Mr. ARMSTRONG, a bill designed to provide relief to the Jefferson County Mental Health Center in connection with certain social security tax payments.

The Jefferson County Mental Health Center, located in Colorado, is a nonprofit organization which is exempt from employee participation in the social security program. However, employees at the center elected to participate in the program, and, in 1963, the center filed the appropriate forms with the Internal Revenue Service and began withholding FICA taxes.

When IRS reviewed the center in 1975, however, no record of this filing could be found. As a result, the IRS directed the center to refund the withheld FICA taxes to any employee who did not wish to continue his/her social security coverage.

After refunding $74,128 to its employees, the center applied to IRS to have that amount repaid to it. But even after IRS discovered that a valid waiver of immunity from social security taxes had, in fact, been filed, it was unable to reimburse the center. IRS does not have authority to expend funds without a legal obligation or statutory authorization.

Mr. President, the Jefferson County Mental Health Center is seeking reimbursement solely for the employee share of the social security taxes involved and only for the period before IRS notified the center of its error. This legislation authorizes the Secretary of the Treasury to determine the amounts withheld and

to treat those amounts as tax overpayments, reimbursable to the center.

During the 95th Congress, the Senate passed this legislation as an amendment to an authorization bill. Unfortunately, Congress adjourned before final action on the bill was completed. In the 96th Congress, Congressman WIRTH of Colorado introduced the measure. It passed the House, but neither the Senate Finance Committee nor the full Senate had an opportunity to act on it.

Congressman WIRTH has reintroduced the bill in the House of Representatives, and the House Judiciary Committee plans to consider it in the near future.

Mr. President, under the circumstances, relief to the Jefferson County Mental Health Center is certainly justified. I look forward to quick action on this necessary measure by the Senate Finance Committee on the full Senate.●

● Mr. ARMSTRONG. Mr. President, today Senator HART and I are introducing a bill to provide relief to the Jefferson County Mental Health Center. The center, located in Lakewood, Colo., and serving a tricounty area, suffered a round of administrative misunderstandings with the Internal Revenue Service that can only be corrected by this legislation.

The Jefferson County Mental Health Center is exempt from employee participation in the social security program, as are all nonprofit organizations, unless the employees elected to participate in the system. In 1963 the employees at the center elected to take coverage in the program and the proper forms were filed with the IRS. Subsequently, FICA taxes were withheld to effect such participation.

The problem developed in 1975 when IRS initiated a survey and the Jefferson County Mental Health Center was unable to find any indication that it had waived its immunity of taxes. Consequently, the IRS directed the center to refund those FICA taxes withheld to all employees and said that the IRS would reimburse the center.

The 133 employees were reimbursed by the center for a total of $74,128. At that point, the IRS discovered a valid waiver of immunity had, in fact, been filed, and it was therefore unable to refund the taxes paid to the center. By this time it was too late to get money back from the employees.

Mr. President, the IRS cannot remedy this blunder because it does not have the authority to expel funds without a legal obligation to do so or a statutory authorization. This bill provides that the Secretary of the Treasury determine the amounts withheld and treat these amounts as tax overpayments which are then reimbursed to the center. The center is seeking relief only for the employee share of the social security taxes involved and only for the period prior to the time when IRS notified the center that its previous instructions were in error.

The bill also provides for social security coverage for the affected employees. Services performed by the employees were covered and should not be removed from coverage because of erroneous information given by a Government agency.

The Finance Committee's Subcommittee on Taxation and Debt Management held a hearing on this proposal in October 1977. The Senate subsequently reviewed and passed the legislation as an amendment to an authoriztion bill. Unfortunately, that authorization bill was not acted on before Congress adjourned. In the 96th Congress, the House agreed to such a measure, with no Senate action.

Mr. President, the facts and equities of this case merit legislative relief as provided for in the bill and I enthusiastically recommend to the Senate expeditious approval by the 97th Congress.●

By Mr. QUAYLE:

S. 1474. A bill to continue the operation of the Defense Department's education system in the Department of Defense; to the Committee on Armed Services.

REPEAL TRANSFER OF DEPARTMENT OF DEFENSE SCHOOLS TO DEPARTMENT OF EDUCATION

● Mr. QUAYLE. Mr. President. Today, I am introducing legislation to repeal that provision in law which requires the transfer of Department of Defense dependents schools (DODDS) to the Department of Education. I firmly believe that the Defense Department should operate these schools.

The DODDS system was instituted after World War II when dependents began to accompany parents to their overseas assignments. Over 260 schools are operating in 23 countries providing education to over 135,000 students.

I am opposed to this transfer because: First, the quality of education would not be improved, second, the transfer is used to justify the existence of the Department of Education, and third, the transfer does not recognize the unique characteristic of these schools.

On May 6 of this year, the Secretary of Education transmitted to Congress a report of a plan for the transfer of the overseas schools to the Department of Education. Throughout this report, there are references to equating the practices and operation of these schools to resemble those in the United States. However, the DODDS are already providing quality education equal or better to that provided by public schools in the States. All of the DODDS high schools are accredited by the North Central Association of Colleges and Schools, which provides accreditation to over 4,700 schools and colleges in the United States. The teachers are highly qualified with 1.3 percent having doctor's degrees and 48.7 percent having master's degrees (compared with 0.4 percent doctor's and 34.3 percent master's in the public schools). On SAT's, students from the DODDS system, on the average, score slightly higher than students from the States.

This transfer, while not improving the quality of education, would increase the bureaucracy. The transfer of these schools would more than double the size of the Department of Education. At the end of the fiscal year 1980, the Department had approximately 6,100 full-time employees. The schools employ over 9,000 individuals, most of whom are professional educators. This would add more employees than are currently in the Department of Education, providing a justification for maintaining a department-sized Federal education entity.

In the Secretary's report to Congress, it states that the Department of Defense will—

> Continue to provide personnel services to overseas employees to the dependents education system, provide administrative control over overseas school system personnel, and treat all overseas school system personnel, for the purposes of access to services and facilities, as employees of DOD.

In addition, those personnel "whose duties involve support for the overseas dependents schools" but are not employees of the DODDS will not be transferred to the Department of Education. DOD will also continue to hold title to the facilities used by the schools.

What this means is that DOD and the Department of Education will have to meet continually to coordinate the operation of these schools. This bureaucratic "runabout" is unnecessary if the schools remain where they are now, within the Department of Defense.

Finally, the desire by the Department of Education to treat these schools as educational institutions in the United States ignores the unique character of both the schools and the students.

The normal tour of duty for military personnel at one location is approximately 3 years. This frequent change causes social and adjustment problems for the children. The schools tend to be a secure, stable environment in a nonstable life. Insuring this understanding has been a goal of the Department of Defense in operating the schools. Treating these schools and their students as the same as schools in the continental United States would destroy the compassion needed to deal with the rigors of overseas military life.

The DODDS personnel as employees of the Department of Defense have security clearance and receive advance information on transfers to be able to adequately prepare for the arrival of new students. This is a rare feature not usually provided in U.S. local schools. The DODDS system is operating in a completely different environment, in foreign countries with different customs and cultures.

The law currently requires that advisory councils be instituted to assure more systematic participation by parents, students, teachers, and military personnel in the operation of the schools. The report to the Congress by Secretary Bell devotes a large number of pages to the composition and activities of the councils.

I have included in my legislation a section making minor technical changes in the composition of the national-level council. The Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics will be the chairman of the council.

He will also appoint 12 individuals who will be well "versed by training or experience" in the field of primary or secondary education. These include representatives of professional employee organizations, school administrators, par-

ents of students enrolled in the schools, and one student. My change comes by giving the Assistant Secretary the discretion to also appoint representatives from overseas military commands and from other educational organizations. This provision insures a cooperative effort on the council between those involved in educational functions and those involved in the day-to-day operation of the schools.

My bill makes one other technical change in current law. The Director is to submit to Congress a report on the schools "not later than 1 year after July 1, 1979." The system has not made a report to Congress in part because they must consult with the advisory council which is not yet established. Therefore, I have amended this section to require a reporting date to Congress of January 1, 1983.

My bill is very simple, Mr. President. It repeals the transfer of the DOD overseas dependents school system to the Department of Education.

The administration has informed me that it is taking a position in support of maintaining the schools within the Defense Department. I shall ask that a letter from White House Assistant Max L. Friedersdorf be printed in the RECORD following my remarks.

Time is running out, Mr. President. We must ask now if the transfer is to be stopped. I urge expeditious consideration of this legislation.

Furthermore, I urge my colleagues to join me in this effort to keep the overseas dependents schools within the Department of Defense.

I ask unanimous consent that the bill and the letter referred to be printed in the RECORD.

There being no objection, the bill and the letter were ordered to be printed in the RECORD, as follows:

S. 1474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) (1) sections 208 and 302 of the Department of Education Organization Act are repealed.

(2) Sections 202(e), 401(f), 419(a)(2), and 503(a)(2) of the Department of Education Organization Act are repealed.

(b) The items relating to sections 208 and 302 in the table of contents of such Act are repealed.

SEC. 2. (a) Section 1410(b) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "The Secretary of Education, in consultation with the Secretary of Defense," and inserting in lieu thereof "The Secretary of Defense".

(b) Section 1411(a) of the Department of Defense Dependents' Education Act of 1978 is amended to read as follows:

"(a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

"(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the 'Assistant Secretary'), who shall be the chairman of the Council;

"(2) twelve individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

"(3) representatives from overseas military commands and from educational organizations as designated by the Assistant Secretary.".

(c) Section 1411(b)(1) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "Secretary of Education" and inserting in lieu thereof "Assistant Secretary".

(d) Section 1411(c) of the Department of Defense Dependents' Education Act of 1978 is amended—

(1) by striking out clause (2);

(2) by redesignating clauses (3), (4), and (5) as clauses (2), (3), and (4), respectively; and

(3) by striking out "Secretary of Education" in clause (4) (as redesignated in clause (2) of this subsection) and inserting in lieu thereof "Assistant Secretary".

(e) Section 1412(a)(2) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "two years after the effective date of this title" and inserting in lieu thereof "January 1, 1983".

(f) Section 1412(c) of the Department of Defense Dependents' Education Act of 1978 is amended by striking out "one year after the effective date of this title" and inserting in lieu thereof "January 1, 1983".

SEC. 3. The Director of the Office of Management and Budget, the Secretary of Defense, and the Secretary of Education are each directed to take whatever action is necessary to assure the continued effective administration of the Defense Dependent's education system pursuant to title XIV of the Education Amendments of 1978.

THE WHITE HOUSE,
Washington, D.C., June 2, 1981.

Hon. DAN QUAYLE,
U.S. Senate, Washington, D.C.

DEAR DAN: I sincerely apologize for this extreme delay in responding to your February letter in which you urge that the Department of Defense Overseas Dependent Schools remain within the Department of Defense and not be transferred to the Department of Education.

As you know, the Department of Education Organization Act (Public Law 96-88) called for the transfer of these schools no later than 3 years after the effective date of this act (May 1980). Such transfer has not yet taken place, and the Administration is taking the position that the Overseas Dependent Schools should remain within the Department of Defense.

Your views on this matter are most appreciated, and we will be sure to contact you as additional information becomes available. I have taken the liberty of sharing your correspondence with the appropriate advisory staff within the Administration so that they may have the benefit of your views on this important matter.

Thank you for bringing your concerns to our attention.

With cordial regard, I am,
Sincerely,

MAX L. FRIEDERSDORF,
Assistant to the President. ●

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1475. A bill to amend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

EXTENSION OF SECTION 252 OF ENERGY POLICY AND CONSERVATION ACT

● Mr. McCLURE. Mr. President, today I am introducing legislation that would amend the Energy Policy and Conservation Act by extending the expiration date of section 252 of that act. The expiration date in the current law is September 30, 1981. The bill would extend the date to June 30, 1985, which is also the expiration date for titles I and II of the act. Those titles relate to domestic energy supplies, the strategic petroleum reserve, and standby energy authorities, including authorities with respect to the international energy program.

Section 252 of the Energy Policy and Conservation Act authorizes U.S. oil companies to participate in voluntary agreements for implementing the allocation and information provisions of the agreement on an international energy program. That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption. Section 252 also provides a limited defense against any antitrust suits that may be brought against U.S. oil companies participating in the international energy program. The antitrust defense is limited to actions taken in implementing the allocation and information provisions of the program.

The agreement creating the international energy program was originally signed in 1974 as the result of an effort by the United States to promote cooperation among major industrial countries in reducing dependence on imported oil. There are presently 21 signatories to the agreement, consisting of most of the principal industrialized oil consuming nations. The agreement provided for creation of the international energy agency as an autonomous entity within the Organization for Economic Cooperation and Development. The agreement also provided that the IEA would serve as the medium for the operation of an international oil sharing system for use during oil supply emergencies, and an information system on the international oil market. It also required each country to establish an emergency petroleum storage program, and to have a means for restraining demand for petroleum products in the event of an interruption of petroleum supplies to the IEP countries.

Section 252 of EPCA sets out procedures applicable to the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program. Under this authority, U.S. oil companies entered into the voluntary agreement and plan of action to implement the international energy program. At present, 22 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the voluntary agreement.

The antitrust defense made available by section 252(f) is essential to the participation of U.S. oil companies in the voluntary agreement and, through it, in the IEP. The IEP, in turn, can function effectively only with participation by United States and foreign oil companies, which are primary sources of information about conditions in the international oil market and would be the primary actors in redistributing oil if the

IEP's emergency-sharing provisions were activated.

As I have previously noted, the current expiration date of section 252 is September 30, 1981. If the Congress fails to act by that date and section 252 is allowed to expire, U.S. oil companies participating in the international energy program would be compelled to cease their participation in the program. If that should occur, the allocation mechanism of the program could not operate effectively in the event of any new disruption of oil supplies in the international oil market.

During the last Congress, the expiration date was extended on three separate occasions. It was extended a fourth time during this Congress, when the date was changed from March 15 to September 30, 1981. It is now time for Congress to avoid the necessity for these periodic amendments by enacting a long-term extension.

Participation by the United States in the international energy agency is central to the pursuit of our long-term international energy objectives. In general terms, the IEA provides a unique and effective forum for consultations and joint actions with our principal allies in the industrialized world. It represents a shared commitment to cooperate in dealing with one of the most critical issues of our time. More specifically, in terms of facing oil shortages, the United States benefits from the IEA emergency sharing commitment. Our participation in the allocation program reduces our vulnerability to politically inspired embargoes directed solely at the United States. Moreover, during a general triggering of the system, member countries would share the shortfall equitably, and the result would be a reduction in the devastating ratcheting of prices that otherwise would result from individual members scrambling for oil on their own.

I am pleased to note, Mr. President, that the legislation would not result in an increase in the budgetary requirements for the Department of Energy.

The Energy and Natural Resources Committee will schedule a hearing on this bill in the near future. Mr. President, I am hopeful that the Congress will enact an extension of section 252 before the current expiration date, and that the extension will be long term, to June 30, 1985.●

By Mr. DURENBERGER (for himself and Mr. ANDREWS):

S. 1476. A bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes; to the Committee on Energy and Natural Resources.

PETROLEUM DISRUPTION MANAGEMENT ACT

Mr. DURENBERGER. Mr. President, the Emergency Petroleum Allocation Act of 1973 expires on September 30 of this year. Since its enactment shortly after the Arab oil embargo, this legislation has been the core of our energy policy in the United States. It provided the authority to control crude oil and gasoline prices and to allocate crude oil and petroleum products among refiners, consumers, and regions of the Nation. Although we did not always use this authority wisely and although the President will continue to have some emergency power under other law, the expiration of EPAA will leave us largely without a policy focus during petroleum emergencies.

Senator ANDREWS and I are today introducing legislation to replace EPAA. This legislation does not extend EPAA. It replaces EPAA with a new approach to managing petroleum disruptions. Before describing this legislation in detail, I would characterize it through a brief comparison to EPAA. First, it does not rely on extensive Government programs to manage shortfalls. It does not authorize crude oil price controls. It uses the marketplace supplemented only to the extent necessary to protect public health and safety, our national security, and our economic well-being.

This bill authorizes no semipermanent Government regulations. Any regulation activated under this legislation would have a life limited to 120 days. It does not provide Presidents with broad authority to use any and all forms of intervention for any and all emergencies. Rather it provides a series of responses to be implemented sequentially in a gradual response to a shortfall.

Finally, unlike EPAA this bill provides no subsidy to any sector of the petroleum industry or energy consuming public. It sends the right signals to all parties so as not to discourage our efforts to become independent from foreign imports.

Mr. President, the bill we introduce today contemplates five disruption management techniques. At the beginning of every shortfall and for the duration of any small shortfall our response should rely primarily on private stocks. The problem with such reliance is that the market encourages refiners to sell crude oil during a surplus and hold during a disruption. These incentives, although easily understood, sometimes work contrary to the national interest. The bill requests a study from the President to determine the practicality of reversing these incentives through amendments to the Internal Revenue Code which would encourage refiners to build stocks during gluts and draw down these stocks during disruptions.

The second disruption management program is based on the strategic petroleum reserve. The bill would authorize the Department of Energy to sell oil from the strategic reserve during substantial petroleum disruptions or at times when the International Energy Program is activated. These sales would be to small and independent U.S. refiners and would provide them with some recourse other than the spot market where prices rapidly escalate during a shortage. A minimum level of strategic reserve oil would be withheld from sale for purposes of national security.

Mr. President, I am confident that if our SPR program had gone forward as we planned in the early part of the last decade, we would now be in a position to respond adequately to any but the most severe petroleum disruption. However, it will now be several more years before the fill level is sufficient for this kind of protection and it is necessary to provide a transition program to meet intermediate disruptions until such time as our SPR goal is reached. The bill includes such a program, called the private dedicated reserve, which is a limited allocation program for sales between refiners with adequate supply in a shortfall and those who because of a disruption cannot operate at the national utilization rate.

The fourth management technique is a national crude oil sharing program to be used only in the most severe petroleum supply interuption. It requires equal distribution of all available crude oil among all refiners. It would also allow the President to order specific product yields and refinery utilization rates on a refinery-by-refinery basis.

Finally, the bill also authorizes a product allocation program which again is intended only for use during severe interuptions. This portion of the bill tracks the currently expiring EPAA to establish priority use designations, continued supplies to all regions of the country and the State set-aside program.

Mr. President, it is clear from this short description that the bill is designed to provide for a sequential management system. We begin with reliance on the marketplace and only move toward government intervention as necessary and then only in limited steps.

Perhaps the most difficult task in drafting such a sequential program is to determine the levels of disruption or price increases which should activate a government response. This is the trigger problem. We have avoided this difficulty in drafting the bill by providing for an implementation process that describes the effect rather than the size of the shortfall and relies on a political rather than a statistical determination of the appropriate point to activate any one of the five mechanisms.

Implementing these disruption management techniques begins with a requirement that the President promulgate standby regulations for each program within 120 days of enactment. These regulations are transmitted to the Congress but are not effective in a standby status unless approved by a joint resolution within 30 days. Once approved they can only be activated by a second resolution submitted to the Congress after a Presidential determination that a substantial or severe disruption exists or is imminent. Again, affirmative congressional action is required to activate any such program. One further feature is the automatic sunset of the activating resolutions. No program so authorized could continue beyond 120 days without further congressional authorization.

Mr. President. this is a simple outline of the bill. I am submitting a detailed section-by-section analysis with my comments today and a copy of the legislation. I am sure that there will be much debate about the fine points as there should be in the case of a policy with this importance. However, I believe that the basic structure of the bill—sequential management triggered by congressional action—is the essential fea-

ture that makes this legislation unique. I believe that the structure of the bill will survive the scrutiny of close examination and analysis and that a program very similar to this will emerge as a replacement for EPAA. It is clear that we need such a program and I am pleased to offer this bill as a starting point.

Mr. President, I would ask that the section-by-section analysis and a copy of the bill be printed in the RECORD.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 1476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Petroleum Disruption Management Act of 1981".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) CONGRESS FINDS AND DECLARES THAT—

(1) shortages of crude oil and refined petroleum products caused by inadequate domestic production and the general unavailability of imports sufficient to meet domestic demand have occurred in the past and are likely to recur in the future;

(2) during such shortages, hoarding and destructive competition among petroleum refiners for available supplies cause spot market prices to rise precipitously above the prices of crude oil sold pursuant to contracts; such a dramatic escalation of spot crude oil prices tends to encourage price increases in crude oil sold pursuant to contracts and encourages producers to divert crude oil to the spot market where much higher prices prevail;

(3) such shortages and the resulting price escalations have threatened and will threaten national security, and have created and will create severe economic dislocations and hardships, including severe inflationary pressures on the economy and sharp increases in the prices of gasoline, diesel fuel and other refined petroleum products sold to consumers across the United States;

(4) during such shortages and dislocations, which begin as crude oil disruptions but are readily translated into refined petroleum product disruptions, petroleum refiners have unequal access to crude oil supplies at competitive prices, with the result that regional supply imbalances occur and some regions and areas of the United States are more severely affected by shortages and higher prices than others; in these areas such shortages will create particularly severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop planting and harvesting, shortages of home heating oil, and curtailment of vital public services, including public transportation and the transportation of food and other essential services; such regional shortages are particularly acute in rural and less densely populated areas served by independent refiners; these are the same areas in which many larger refiners have discontinued or are discontinuing service;

(5) the American economy should not, and need not, be held captive by international cartel-controlled supply and price levels which threaten the viability and competitiveness of the domestic refining industry, thereby impairing service to all regions of the country;

(6) such hardships and dislocations have, in the past, interrupted the normal flow of commerce and created national energy crises which have impaired the public health, safety and welfare before effective responsive action was initiated; extensive governmental intrusion can be avoided in dealing with more limited disruptions if the crude oil shortages that could lead to regional imbalances are dealt with effectively and in a timely manner, including use of the Strategic Petroleum Reserve; and

(7) the national security and economic well-being of the United States requires that a standby sequential petroleum disruption management program be established and maintained in anticipation of a future crisis so that efficient and immediate action can be taken by the President and the Congress to manage such disruptions and their consequences.

(b) The purpose of this Act is to establish an overall sequential petroleum disruption management program comprised of several individual programs each of which is to be formulated and implemented so as to assure timely and effective action in managing petroleum supply disruptions of varying magnitudes and causes. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse short- and long-term effects of petroleum disruptions on the American people and the economy, and in a manner that such adverse effects are anticipated and contained at their inception.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(a) "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (1) the annex entitled "Emergency Reserves," (2) any amendment to such Agreement which includes another nation as a party to such Agreement; and (3) any technical or clerical amendment to such agreement;

(b) "national utilization rate" means the ratio of crude oil available as input to domestic refineries in any particular period (excluding inventory volumes as determined by rule by the Secretary after consultation with the Energy Advisory Committee and included as part of the programs established in Sections 305 and 401), compared to the aggregate refining capacity of all domestic refineries which have been in operation during all or part of the three months prior to the activation of the program or programs established in Titles III and IV of this Act;

(c) "petroleum disruption management program" means the Strategic Petroleum Reserve Program, Private Dedicated Reserve Program, National Crude Oil Sharing Program, and Petroleum Product Disruption Management Program as specified in this Act;

(d) "refiner" means a person which owns, operates or controls the operation of one or more refineries;

(e) "refined petroleum product" means any refined petroleum product, including gasoline, kerosene, middle distillate (including Number 2 fuel oil), LPG, refined lubricating oils, diesel fuel, jet fuel, residual fuel oil, and any natural gas liquid or natural gas liquid product;

(f) "Secretary" means, unless otherwise specified in a particular section, the Secretary of Energy;

(g) "severe petroleum supply interruption" means a national petroleum supply shortage which (1) is, or is likely to be, of significant scope and duration, (2) may cause major adverse impact on national security or the national economy, and (3) results, or is likely to result, from an interruption in the crude oil or refined petroleum product supplies of the United States, including supplies of imported crude oil and refined petroleum products, or from sabotage or an act of God;

(h) "substantial crude oil supply disruption" means a national crude oil disruption of lesser magnitude than a severe petroleum supply disruption, or a regional crude oil disruption, arising from either limited crude oil supplies or anomalous crude oil price conditions, which affects 'qualified refiners' in the manner specified in Section 301(d)(1); and

(i) "United States" means all of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

TITLE I—SEQUENTIAL MANAGEMENT AUTHORITY AND ACTIVATION

PETROLEUM DISRUPTION MANAGEMENT PROGRAM DEVELOPMENT AND IMPLEMENTATION

SEC. 101. (a) Within 120 days after the date of enactment of the Act, the President shall

prescribe by rule, after notice and opportunity for oral presentation of data, views, and arguments, and transmit to the Congress for approval in accordance with Section 102 the following four petroleum disruption management programs:

(1) a Strategic Petroleum Reserve Distribution Program, promulgated in conjunction with the Secretary of Energy's authority to develop a Strategic Petroleum Reserve Plan and in accordance with the requirements of Part B of Title I of the Energy Policy and Conservation Act, as amended by this Act;

(2) a Private Dedicated Reserve Program, promulgated in accordance with the requirements of Section 305 of this Act;

(3) a National Crude Oil Sharing Program, promulgated in accordance with the requirements of Section 401 of this Act; and

(4) a Petroleum Product Disruption Management Program, promulgated in accordance with the requirements of Section 501 of this Act.

(b) The programs specified in subsection (a) may not become effective unless—

(1) The President has transmitted such program to Congress in accordance with subsection (a);

(2)(A) the Strategic Petroleum Reserve Distribution Program has been approved as an amendment to the Strategic Petroleum Reserve Plan in accordance with the provisions of Part B of Title I of the Energy Policy and Conservation Act, as amended by this Act; and

(B) the Private Dedicated Reserve Program, Natural Crude Oil Sharing Program, and Petroleum Product Disruption Management Program have been approved by Congress in accordance with the provisions of Section 102 of this Act; and

(3) the activation of the program or programs has been approved in accordance with Section 103 of this Act.

(c) The Private Dedicated Reserve Program, National Crude Oil Sharing Program, or Petroleum Product Disruption Management Program may not be amended unless the President has transmitted such amendment to the Congress and the Congress has approved the amendment in accordance with the procedures specified in Section 102. Technical or clerical amendments to a program may be prescribed after notice and opportunity for oral presentation of data, views, and arguments and the amendments have been submitted to the Energy and Natural Resources Committee of the United States Senate and the Energy and Commerce Committee of the United States House of Representatives.

APPROVAL OF PETROLEUM DISRUPTION MANAGEMENT PROGRAMS

SEC. 102. (a)(1) The Strategic Petroleum Reserve Plan, as amended to comply with the requirements of this Act, shall be transmitted for approval in accordance with Section 159(a), as amended, of the Energy Policy and Conservation Act.

(2) The Private Dedicated Reserve Program, National Crude Oil Sharing Program, and Petroleum Product Disruption Management Program shall each be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b)(1) No such petroleum disruption management program specified in subsection (a)(2) may be considered approved for purposes of Section 101(b) of this Act unless between the date of transmittal and the end of the first period of 30 calendar days of continuous session of Congress after the date on which such action is transmitted to the Congress, each House of Congress passes a resolution described in subsection (c).

(2) For the purpose of subsection (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(c) For purposes of applying this section with respect to a petroleum disruption management program, "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the ———— approves the ———— Program submitted to the Congress on ————, 19—," the first blank space therein being filled with the name of the resolving House, the second blank space being appropriately filled with the name of the program considered, and the last blank space being filled with the appropriate date; but does not include a resolution which specifies more than one petroleum disruption management program.

(d) A resolution once introduced with respect to a program listed in Section 101 of this Act shall be considered by the Congress in the same manner as an energy conservation contingency plan is considered pursuant to the expedited procedures established in Section 552 of the Energy Policy and Conservation Act.

(e) If the Strategic Petroleum Reserve Plan (or amendment thereto) or a petroleum disruption management program submitted in accordance with this section is not approved, the President shall, within 15 days, submit a revised Plan or program (or revised amendment thereto) to the Congress for approval pursuant to the requirements of Section 159(a), as amended, of the Energy Policy and Conservation Act in the case of the Strategic Petroleum Reserve Plan and the requirements of this section for the programs specified in subsection (a)(2).

ACTIVATION OF PETROLEUM DISRUPTION MANAGEMENT PROGRAMS

SEC. 103. (a) Activation of the below-listed petroleum disruption management programs shall be made in the following manner—

(1) Strategic Petroleum Reserve Distribution.

(A) Except as provided in Section 302(a), the President may distribute and allocate crude oil and/or refined petroleum products from the Strategic Petroleum Reserve whenever the President determines that a substantial crude oil supply disruption exists or is imminent, a severe petroleum supply disruption exists or is imminent, a severe energy supply interruption exists or is imminent, or such distribution and allocation is necessary in order to comply with the obligations of the United States under the international energy program, and only with the passage of a joint resolution authorizing distribution and allocation from the Strategic Petroleum Reserve.

(B) In the event of an actual or imminent substantial crude oil supply disruption, or an actual or imminent severe petroleum supply interruption, or an actual or imminent severe energy supply interruption, or that the international energy program has been implemented and the obligations of the United States under that program require distribution and allocation from the Strategic Petroleum Reserve, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(2) Private Dedicated Reserve Program.

(A) The President may implement the standby plan prescribed in Section 305 of the Act whenever the President determines that a substantial crude oil supply disruption exists or is imminent and only with the passage of a joint resolution authorizing implementation of the Private Dedicated Reserve Program.

(B) In the event of an actual or imminent substantial crude oil disruption, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(3) National Crude Oil Sharing Program.

(A) The President may implement the standby plan prescribed in Section 401 of the Act whenever the President determines that a severe petroleum supply interruption exists or is imminent or such implementation is necessary in order to comply with the obligations of the United States under the international energy program and only with the passage of a joint resolution authorizing implementation of the National Crude Oil Sharing Program.

(B) In the event of an actual or imminent severe petroleum supply interruption or that the international energy program has been implemented and the obligations of the United States under that program require implementation of the National Crude Oil Sharing Program, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day.

(4) Petroleum Product Disruption Management Program.

(A) The President may implement the standby plan prescribed in Section 501 of the Act whenever the President determines that a severe petroleum supply interruption exists or is imminent or such implementation is necessary in order to comply with the obligations of the United States under the international energy program and only with the passage of a joint resolution authorizing implementation of the Petroleum Product Disruption Management Program.

(B) In the event of an actual or imminent severe petroleum supply interruption or that the international energy program has been implemented and the obligations of the United States under that program require implementation of the Petroleum Product Disruption Management Program, the President shall transmit evidence of the determination called for in subsection (A) and a request for a joint resolution to both Houses of Congress on the same day;

(b) No such joint resolution may be considered approved for purposes of subsection (a) unless, between the date of transmittal and the end of the first period of 6 calendar days of the date on which such action is transmitted to such House, each House of Congress passes the appropriate joint resolution described in subsection (d)(2).

(c) If the Congress is not in session the President may call the Congress into emergency session.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "joint resolution" means only a resolution of Congress which reads, where appropriate, as follows:

(A) "The President is authorized to implement the Private Dedicated Reserve Program promulgated pursuant to Section 305 of the Petroleum Disruption Management Act of 1981 for a period of time not to ex-

ceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(B) "The President is authorized to implement the National Crude Oil Sharing Program promulgated pursuant to Section 401 of the Petroleum Disruption Management Act of 1981 for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(C) "The President is authorized to implement the Petroleum Product Disruption Management Program promulgated pursuant to Section 501 of the Petroleum Disruption Management Act of 1981 for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(D) "The President is authorized to distribute and allocate crude oil and/or petroleum products from the Strategic Petroleum Reserve pursuant to the Strategic Petroleum Reserve Plan and allocation regulations for a period of time not to exceed 120 days beginning on the date ten days after the enactment of this joint resolution."

(3) A joint resolution once introduced shall immediately be referred to the House Committee on Energy and Commerce and the Senate Committee on Energy and Natural Resources by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

(4)(A) If the committee to which a joint resolution has been referred has not reported it at the end of two calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such joint resolution or to discharge the committee from further consideration of any other joint resolution which has been referred to the committee.

(A) A motion to discharge may be made only by an individual favoring the joint resolution, shall be highly privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to), to move to proceed to the consideration of the joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the joint resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such joint resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such joint resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a joint resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(e) The procedures described in (a) and (b) above may also be initiated by either the Senate or the House of Representatives with the introduction of a joint resolution sponsored by either 8 Senators or 25 Congressmen, respectively. If the President vetoes the measure so initiated, the Congress may attempt to override the veto in the usual manner.

(f) The President may seek implementation of each of these programs for successive 120 day periods under the procedures described in this section by submitting an additional request using the same procedure specified in this Section as may the Congress under the procedures specified in Section 103 (e).

TITLE II—PRIVATE CRUDE OIL AND PETROLEUM PRODUCT STORAGE INCENTIVES

OIL STORAGE TAX INCENTIVES REPORT

SEC. 201. Within 180 days after the date of the enactment of this Act, the President shall submit a report on the advisability and alternative means of (1) reducing the tax liability of persons who draw down crude oil and petroleum product reserves during oil supply disruptions, and (2) providing tax or other incentives for the construction of private-sector crude oil and petroleum product storage facilities and the maintenance of increased private-sector crude oil or petroleum product reserves.

TITLE III—STRATEGIC PETROLEUM RESERVE AND PRIVATE DEDICATED RESERVE DISTRIBUTION

DEFINITIONS

SEC. 301. For purposes of this Title, the term—

(a) "crude oil runs to distillation units" means the total number of barrels of crude oil input to distillation units processed by a refiner measured in accordance with standards established by rule by the Secretary of Energy after consultation with the Energy Advisory Committee;

(b) "designated refiner" means a refiner which is not a small or independent refiner, and which has, as determined by rule by the Secretary after consultation with the Energy Advisory Committee, volumes of crude oil available to it sufficient to enable it to operate in excess of the national utilization rate;

(c) "independent refiner" means a petroleum refiner whose total petroleum refining capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) is located within the United States, who, during any calendar year, as certified to the Secretary of Energy by such refiner obtained, directly or indirectly, in the previous calendar year, more than 70 per centum of its refinery input of domestic crude oil (or 70 per centum of its refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with such refiner;

(d) "qualified refiner" means a small and independent refiner that—

(1)(A) is incurring, or would incur during a given period, a reduction in its supply of crude oil such that its ratio of crude oil runs to distillation units to Department of Energy certified crude oil refinery capacity would fall below 95 percent of the national utilization rate, and (B) is not able or cannot reasonably be expected to replace such lost supplies through its own efforts, including, but not limited to a situation where the refiner must pay a price for replacement supplies in excess of the weight-averaged price during a given time period for all crude oil produced in, and imported into, the United States, with consideration being given to economically-based quality differentials.

(2)(A) The Secretary shall by rule, after consultation with the Energy Advisory Committee, establish criteria the Secretary will use in deciding whether to designate a refiner as a qualified refiner under this title, which criteria shall be incorporated into the Private Dedicated Reserve Program. In making such a designation the Secretary shall consider the national and regional need for particular types of petroleum refining and minimum levels of storage capacity, and the cost of supplying such capacity.

(B)(i) The Secretary shall, upon application, designate any small and independent refiner as a qualified refiner under this title if based on information provided by such refiner the Secretary determines that (1) such refiner meets the criteria established under subsection (A); or (2) such refiner provided a written commitment, including a commitment of funds, satisfactory to the Secretary, that the refiner through control of a new, expanded or retrofitted refinery or refineries will comply with subparagraph (1) within a time period specified by the Secretary.

(ii) Notwithstanding paragraph (i), the Secretary may designate a domestic refiner as a qualified refiner under this Title if the Secretary determines, based on information provided by such refiner, that, but for such designation, it is likely that essential public service or econcmic activity in a region or regions of the United States will be impaired during a substantial crude oil supply disruption to an extent significantly greater than would otherwise be the case.

(C) Any refiner designated a qualified refiner under paragraph (B)(i)(2) shall make such progress reports with respect to any commitment under such paragraph as the Secretary may reasonably require. The Secretary may periodically review any designation under subsection (B), but may not rescind any such designation unless he determines, after notice and opportunity for a hearing, that the requirements for the designation are not being met, or in the case of a designation under paragraph (B)(a)(2) are not likely to be met within the time period set forth in the commitment under such subparagraph or any reasonable extension thereof.

(3) Notwithstanding subparagraph (B)(i)(2), the Secretary of Energy may determine that a refiner is a qualified refiner if the refiner is one which provides essential public service or economic activity in a region or regions of the United States; and

(e) "small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

PART A—STRATEGIC PETROLEUM RESERVE DISTRIBUTION

DISTRIBUTION FROM THE STRATEGIC PETROLEUM RESERVE

SEC. 302. (a) Notwithstanding any other provision of law and upon a determination that a substantial crude oil disruption exists, the President is authorized to distribute crude oil from the Strategic Petroleum Reserve in amounts not to exceed 300,000 barrels per day for no more than 90 days in any calendar year. Such distribution shall be made on a pro rata basis by rule promulgated in accordance with the standards and in the manner provided in Section 305 of this Act.

(b) Section 3 of the Energy Policy and Conservation Act is amended by adding at the end of such section the following—

"(11) The term 'severe petroleum supply interruption' means a national petroleum product supply shortage which (1) is, or is likely to be, of significant scope and dura-

tion, (2) may cause major adverse impact on national security or the national economy, and (3) results, or is likely to result, from an interruption in the petroleum product supplies of the United States, including supplies of imported crude oil and refined petroleum products, or from sabotage or an act of God.

"(12) The term 'substantial crude oil supply disruption' means a national crude oil disruption of lesser magnitude than a severe petroleum supply disruption, or a regional crude oil disruption, arising from either limited crude oil supplies or anomalous crude oil price conditions, which anects 'qualified refiners' in the manner specified in Section 301(d) (1) of the Petroleum Disruption Management Act of 1981."

(c) Section 151 of the Energy Policy and Conservation Act is amended to read as follows—

"(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of an energy supply interruption, and provide an important means for dealing in a timely and effective manner with the short-term and long-term consequences of interruption in supplies of pertoleum products."

(d) Section 154(b) of the Energy Policy and Conservation Act is amended by—

(1) deleting "not later than December 15, 1976", and substituting "within 120 days of the date of enactment of the Petroleum Disruption Management Act of 1981" in lieu thereof; and

(2) deleting "551" and substituting "552" in lieu thereof.

(e) Section 159 of the Energy Policy and Conservation Act is amended by—

(1) amending subsections (a) and (b) to read as follows:

"SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented unless—

"(1) the Secretary has transmitted such Plan to the Congress, in conjunction with the development by the President of petroleum disruption management programs as required in the Petroleum Disruption Management Act of 1981;

"(2) such Plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552 except that the "60 days" in section 552(b)(1) shall be changed to 30 days; and

"(3) activation of the Plan has been approved by the Congress in accordance with the requirements of section 103 of the Petroleum Disruption Management Act of 1981.

"(b) In developing the Strategic Petroleum Reserve Plan required by the Petroleum Disruption Management Act of 1981, the Distribution Plan and allocation regulations must be revised so as to reflect such Act's requirements pertaining to distribution from the Strategic Petroleum Reserve."

(2) amending subsection (e)(2) to read as follows—

"(2) such proposal or amendment has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552."

(f) Section 161(d) of the Energy Policy and Conservation Act is amended to read as follows—

"(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless (1) the President determines that a (i) substantial crude oil supply disruption, (ii) severe petroleum supply interruption, or (iii) severe energy supply interruption exists or is imminent or that such implementation is necessary to comply with obligations of the United States under the international energy program, and (2) a joint resolution authorizing such implementation is passed in accordance with Section 103 of the Petroleum Disruption Management Act of 1981."

(g) Section 161(e) of the Energy Policy and Conservation Act is amended to read as follows—

"(e) The Secretary shall, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rule, which rule shall become part of the Strategic Petroleum Reserve Plan. The rule shall provide, during a substantial crude oil disruption, for the allocation of crude oil withdrawn from the Strategic Petroleum Reserve in the same manner and upon the same basis as crude oil is provided pursuant to the program established under Section 305 of the Petroleum Distribution Management Act of 1981. In addition, such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended."

AMENDMENT OF STRATEGIC PETROLEUM RESERVE PLAN

SEC. 303. Within 120 days after the enactment of this Act, the Secretary of Energy shall submit to Congress an amendment to the Distribution Plan contained in the Strategic Petroleum Reserve Plan implementing the amendment to Section 161(d) of the Energy Policy and Conservation Act set forth in Section 302(f) of this Act, and the elements of the Strategic Petroleum Reserve Plan allocation regulations set forth in Section 302(g) of this Act.

TEMPORARY RESERVE STORAGE

SEC. 304. Within 180 days of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the expansion of the physical capacity of the Reserve through the use of temporary storage facilities.

PART B—PRIVATE DEDICATED RESERVE PROGRAM

ESTABLISHMENT OF PRIVATE DEDICATED RESERVE PROGRAM

SEC. 305. (a) Within the time period specified in Section 101(a), the President shall promulgate a rule establishing a Private Dedicated Reserve Program in accordance with the provisions of subsection (b). This rule shall be approved in the manner specified in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b) The rule establishing the Private Dedicated Reserve (PDR) Program shall—

(1) Provide for the equitable distribution of crude oil at competitive prices among all regions and areas of the United States;

(2) Require designated refiners to provide crude oil to any qualified refiner that is experiencing or is about to experience a substantial crude oil supply disruption;

(3) Distribute crude oil to such qualified refiners which is of suitable quality for their refineries in amounts which will permit such refiners to operate at 95 percent of the national utilization rate for the United States during the relevant period;

(4) Provide that the obligation of each designated refiner to sell crude oil to qualified refiners shall be a given percentage of each designated refiner's average crude oil runs to distillation units during the previous 12 months and that the total obligation for all designated refiners shall be determined by the total distribution of crude oil to qualified refiners under this Section;

(5) Provide that the price paid by a qualified refiner will not exceed the weight-averaged price during the previous 60-day period for crude oil produced in, and imported into, the United States, including appropriate adjustments for transportation, gravity, sulfur content, and handling;

(6) Provide a mechanism to assure that designated refiners are reimbursed for the crude oil so provided;

(7) Provide for timely action on applications submitted pursuant to this Section; and

(8) Provide for adjustments to the regulation promulgated under this section in accordance with the standards established in Section 504(a) of the Department of Energy Organization Act.

(c) This rule shall be promulgated after consultation with the Energy Advisory Committee.

PART C—EVALUATION OF NEAR-TERM USE OF STRATEGIC PETROLEUM RESERVE TO MANAGE CRUDE OIL DISRUPTIONS

REPORT ON NEAR-TERM USE OF STRATEGIC PETROLEUM RESERVE

SEC. 306. Within 120 days after the enactment of this Act, the Secretary of Energy shall submit to Congress a report determining the minimum volumes of reserves to be maintained in the Strategic Petroleum Reserve as necessary for national defense needs and analyzing the near-term capability and advisability of distributing crude oil from the Strategic Petroleum Reserve (other than as is authorized in section 302(a)) in lieu of activating the Private Dedicated Reserve Program.

TITLE IV—NATIONAL CRUDE OIL SHARING PROGRAM

NATIONAL CRUDE OIL SHARING PROGRAM

SEC. 401. (a) Within the time period specified in Section 101(a), the President shall promulgate a rule establishing a National Crude Oil Sharing Program in accordance with the provisions of subsection (b). The rule shall be approved in the manner specified in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b) The rule establishing the National Crude Oil Sharing Program shall—

(1) Provide for the equitable sharing of crude oil at competitive prices among all regions and areas of the United States during a severe petroleum supply interruption or in order to comply with the obligations of the United States under the international energy program;

(2) Require refiners to offer for sale any crude oil supplies that would permit their refineries to operate in excess of the national utilization rate;

(3) Assure that refiners are able to purchase sufficient crude oil to permit operation of their refineries at the national utilization rate;

(4) Provide that the price paid by a refiner will not exceed the weight-averaged price during the previous 60-day period for crude oil purchased in, and imported into, the United States, including appropriate adjustments for transportation, gravity, sulfur content, and handling;

(5) Provide, based upon standards developed in consultation with the Energy Advisory Committee, for the issuance of directives, which may be issued whenever, a refined petroleum product is or will be in short supply during a severe petroleum supply disruption, requiring a refiner or refiners to adjust their percentage yield of that product in order to increase the relative output of that product in short supply;

(6) Provide, based upon standards developed in consultation with the Energy Advisory Committee, for the adjustment of the quantities of crude oil allocated among refiners pursuant to this rule in a manner designed to ensure desired production levels of refined petroleum products in short sup-

ply during a severe energy supply interruption; and

(7) Provide for adjustments to the regulation promulgated under this Section in accordance with the standards of Section 504(a) of the Department of Energy Organization Act.

TITLE V—PETROLEUM PRODUCT PROGRAMS

PETROLEUM PRODUCT DISRUPTION MANAGEMENT PROGRAMS

SEC. 501. (a) Within the time period specified in Section 101(a), the President shall promulgate a standby regulation which when implemented will provide for the mandatory allocation of refined petroleum products produced in or imported into the United States in amounts specified in (or determined in a manner prescribed by) and at ceiling prices specified in (or determined in a manner prescribed by) such regulation. This regulation shall become effective in the manner prescribed in Section 102, but shall not be activated except in accordance with the findings and procedures specified in Section 103 of this Act.

(b)(1) The standby regulation under subsection (a), to the maximum extent practicable, shall provide for—

(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

(B) maintenance of all public services (including facilities and services provided by municipality, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and service directly related thereto;

(D) preservation of an economically sound and competitive petroleum industry, including the priority needs to foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners and marketers;

(E) equitable distribution of refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners and marketers, and among all users;

(F) allocation of refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(i) fuels, and

(ii) minerals essential to the requirements of the United States, and for required transportation related thereto;

(G) economic efficiency; and

(H) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In specifying prices (or prescribing the manner for determining them), the standby regulation under subsection (a) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil and refined petroleum products at all levels of distribution from the producer to the retail level.

(c) The standby regulation under subsection (a) shall also provide for the establishment of a state set-aside program for refined petroleum products to be activated on a state-by-state basis upon application of the Governor of the State in which the program is to be implemented.

AMENDMENT OF 203(f) OF THE ENERGY POLICY AND CONSERVATION ACT

SEC. 502. Section 203(f) of the Energy Policy and Conservation Act is hereby amended to read as follows—

"(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders of the Petroleum Disruption Management Act of 1981."

TITLE VI—ESTABLISHMENT OF ADVISORY, DATA COLLECTION AND COORDINATION FUNCTIONS

ESTABLISHMENT OF ENERGY EMERGENCY COUNCIL

SEC. 601. (a) Within 60 days of the enactment of this Act, the President shall establish an Energy Emergency Council for the purpose of advising the President on matters relevant to the implementation of the various provisions of this Act and the activation and management of the programs established by this Act. The Energy Emergency Council shall be composed of the following, and such other members of the Executive Branch as the President may, from time to time, designate:

(1) the Secretary of Energy, who shall be the Chairman;

(2) the Secretary of State;

(3) the Secretary of Defense;

(4) the Secretary of Agriculture;

(5) the Secretary of Commerce;

(6) the Secretary of Transportation;

(7) the Secretary of the Interior; and

(8) the Secretary of Labor.

(b) The duties and responsibilities of the Energy Emergency Council shall be—

(1) to advise the President on matters concerning the development, activation and management of the petroleum disruption management programs established by this Act; and

(2) to consult with the Energy Advisory Committee regarding the development of specific mechanisms to deal with petroleum disruptions and appropriate management programs to deal with the effects of a particular disruption.

ESTABLISHMENT OF ENERGY ADVISORY COMMITTEE

SEC. 602. (a) Within 60 days of the enactment of this Act, the President shall establish an Energy Advisory Committee for the purpose of advising the President and the Energy Emergency Council on matters relevant to the implementation of the various provisions of this Act and the activation and management of the programs established by this Act. The Energy Advisory Committee shall be a group reasonably representative of the functions and points of view of the various segments of the petroleum industry, as well as consumers and other users of refined petroleum products, and shall have no fewer than ten nor more than thirty members.

(b) The duties and responsibilities of the Energy Advisory Committee shall be—

(1) to advise the President and the Energy Emergency Council on matters concerning the development, activation and management of the petroleum disruption management programs established by this Act, including the responsibilities of the Committee otherwise specified in the Act; and

(2) to provide recommendations regarding the development of specific mechanisms to deal with petroleum disruptions and appropriate management programs to deal with the effects of a particular disruption.

(c) All records, reports, transcripts, memoranda, and other documents prepared by or for the Energy Advisory Committee shall be made available for public inspection and copying at a single location determined by the Energy Advisory Committee.

(d) The Energy Advisory Committee established pursuant to this section shall be governed in full by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463, Oct. 6, 1972), except the requirements contained therein that are inconsistent with this section.

INFORMATION COLLECTION AND MONITORING

SEC. 603. (a) Within 90 days of the enactment of this Act, the Energy Emergency Council, after consultation with the Energy Advisory Committee and such persons from the Department of Energy as the Chairman of the Energy Council may designate, shall evaluate the current energy information collection and monitoring systems within the federal government in order to ascertain their effectiveness in assuring that the programs established by this Act may be implemented in a timely and effective manner and report their findings to the Secretary of Energy. In evaluating these systems, the Council shall give particular attention to the adequacy of such information to determine trends in national and international crude oil markets, to measure differentials between spot and contract prices, and to project when substantial crude oil supply disruptions are about to occur, as well as their scope, magnitude and likely duration.

(b) Within 120 days of the enactment of this Act, the Secretary of Energy, based on the conclusions reached by the Energy Emergency Council under subsection (a), shall inform the Administrator of the Energy Information Administration—(1) whether the energy information now being collected and monitored is sufficient for purposes of the development and implementation of petroleum disruption management programs; and (2) whether changes in the current energy information collection and monitoring systems maintained by the federal government need to be made.

(c) If the Energy Emergency Council finds, under subsection (a), that additional or different information than that currently being collected and monitored should be collected and monitored, the Secretary of Energy shall direct the Administrator of the Energy Information Administration to make the necessary changes in the reporting or other information gathering requirements to assure that the information necessary for the development and implementation of petroleum disruption management programs provided for in this Act is readily available for those purposes.

(d) In the event that it is determined that additional authority is required to collect the information necessary to assure the timely and effective development and implementation of the programs specified in this Act, the Secretary shall submit a report to the Congress specifying authority required within 120 days of enactment of this Act.

(e) Information collected by the Energy Information Administration shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title 5, United States Code. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, shall continue to apply to any information obtained by the Administrator under such provisions.

COORDINATION OF SEQUENTIAL MANAGEMENT AUTHORITIES WITH OTHER ENERGY EMERGENCY AUTHORITIES

SEC. 604. (a) Within 90 days after the enactment of this Act, the Secretary of Energy

shall submit to Congress a report examining the standards for activation of the programs established in the various existing energy emergency authorities, and any necessary changes to those authorities to conform those activation levels to the levels established in this Act.

(b) In preparing the report required by subsection (a), the Secretary of Energy shall consult with the Energy Emergency Council and the Energy Advisory Committee.

TITLE VII—MISCELLANEOUS PROVISIONS

ADMINISTRATION AND ENFORCEMENT

SEC. 701. (a) Except as provided in subsection (b), (1) sections 205 through 207 and sections 209 through 211 of the Economic Stabilization Act of 1970 shall apply to the regulations promulgated under this Act, to any other order this Act, and to any action taken by the President under this Act, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970, and (2) section 212 (other than 212(b)) and 213 of such Act shall apply to functions under this Act to the same extent such sections would apply to functions under the Economic Stabilization Act of 1970.

(b) The expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this Act, and shall not affect any authority under sections 212 and 213 insofar as such authority is made applicable to functions under this Act.

(c)(1)(A) Whoever violates any provision of the regulations promulgated or any order issued under this Act, shall be subject to a civil penalty of not more than $20,000 for each violation.

(B) Whoever willfully violates any provision of such regulation or such order shall be fined not more than $40,000 for each violation.

(2) Any individual director, officer or agent of a corporation or other business who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or part a violation of subsection (c)(1) shall be subject to penalties under this section without regard to any penalties to which that corporation or business enterprise may be subject under subsection (c)(1).

AMENDMENT OF DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 702. Section 504(a) of the Department of Energy Organization Act is amended by inserting "Petroleum Disruption Management Act of 1981" after "Federal Energy Administration Act".

EXTENSION OF CERTAIN ENERGY POLICY AND CONSERVATION ACT AUTHORITIES

SEC. 703. (a) Section 252(1) of the Energy Policy and Conservation Act is amended by striking "September 30, 1981" and inserting in its place "October 1, 1989".

(b) Section 531 of the Energy Policy and Conservation Act is amended by striking the date "June 30, 1985" in each place that it appears in that section and inserting in each such place "October 1, 1989".

EFFECT ON OTHER LAW

SEC. 704. (a) The regulations promulgated under this Act and any order issued thereunder shall preempt any provisions of any program for the allocation and pricing of crude oil or any refined petroleum product established by any State or local government if such provision is inconsistent with such regulation or any such order.

(b) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulations or any order under this Act.

EXPIRATION

SEC. 705. The provisions of this Act shall cease to have effect on October 1, 1989, but such expiration shall not affect any action or pending proceeding, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based on any act committed or liability incurred prior to such expiration date.

SECTION-BY-SECTION ANALYSIS—PETROLEUM DISRUPTION MANAGEMENT ACT OF 1981

Sec. 1. Short Title and Table of Contents.

Sec. 2. Statement of Findings and Purposes.

Sec. 3. Definitions.—

"International energy program" means the agreement between 21 oil consuming nations to share supplies during a shortfall exceeding 7 percent.

"National utilization rate" means the ratio of total crude oil available through domestic production or imports to U.S. refiners to total refining capacity of U.S. refiners. This definition would allow the Secretary to exclude extraordinary pre-disruption inventories so as to encourage the buildup of private reserves.

"Petroleum disruption management program" means any one or combination of four standby regulations designed to reduce the impact of crude oil supply disruptions including the Strategic Petroleum Reserve, Private Dedicated Reserves, National Crude Oil Sharing, Petroleum Product Disruption Management.

"Refiner."

"Refined petroleum product."

"Secretary."

"Severe petroleum supply disruption" means any crude oil or petroleum shortage of significant scope and duration that would have a major adverse impact on the economy, public health and safety or the national defense. During "severe petroleum supply interruptions" the President could seek Congressional activation of any or all four disruption management programs.

"Substantial crude oil supply disruption" means a shortfall with lesser impact than a severe interruption or a shortfall with only regional implications in either case to be managed without resort to a major national crude oil sharing or petroleum product allocation.

"United States."

TITLE I. SEQUENTIAL MANAGEMENT AUTHORITY AND ACTIVATION

The bill outlines various disruption management techniques from a study of tax credits for storage to product allocations that would be used sequentially in response to supply shortages of various magnitudes. This title authorizes a series of steps to put these programs in place on a standby basis and to activate them at the time of disruption. The steps, Presidential promulgation of programs, Congressional approval on a standby basis, activation by joint resolution and sunset, are similar for each program.

Sec. 101. Program Development and Implementation.—

(a) Requires the President within 120 days of enactment to propose four standby programs for the Strategic Petroleum Reserve Distribution Plan, a Private Dedicated Reserve Program, a National Crude Oil Sharing Program and a Petroleum Product Disruption Management Program.

(b) Requires Congressional approval of the proposed programs before they are effective in a standby status. Provides for procedures to amend programs already approved for standby status.

Sec. 102. Approval of Standby Petroleum Disruption Programs.—

(a) Requires that the Strategic Petroleum Reserve Plan be approved according to the provisions of EPCA (Sec. 552). EPCA requires that the plan be approved by an affirmative resolution passing both Houses within 30 days of transmittal. EPCA provides for discharge of the Committee after 20 days, expedited floor procedures and a limit on the debate of 10 hours on the resolution.

(b) Provides that proposed programs for the Private Dedicated Reserve Program, the National Crude Oil Sharing Program and the Petroleum Product Disruption Management Program are only effective in standby status if approved by both Houses through resolution within 30 days of transmittal.

Specifies language for resolutions approving standby regulations.

Provides that such resolutions be considered in the same manner as energy conservation contingency plans under EPCA. These provisions include motion for discharge after 20 days of Committee consideration and expedited floor procedures limiting debate on the resolution to 10 hours.

Requires that if a standby program is not approved, the President shall submit a new plan within 15 days which shall be approved or disapproved according to the same procedures.

Sec. 103. Activation of Disruption Management Programs.—

(a) Provides for the activation of standby petroleum disruption management programs.

Requires a separate joint resolution of approval by Congress to activate each program.

Requires the President to transmit evidence of substantial or severe disruption to Congress or a report indicating that the International Energy Program has been activated. Sunsets each activated program 120 days after activation.

Authorizes Strategic Petroleum Reserve Distribution during substantial or severe disruption or when obligations of international energy program so require.

Authorizes Private Dedicated Reserve Program during substantial disruption.

Authorizes a National Crude Oil Sharing Program only during a severe interruption or in conjunction with International Energy Program.

Authorizes a Petroleum Product Disruption Management Program only during a severe interruption or in conjunction with IEP.

(b) Stipulates that standby programs are not activated unless joint resolution of approval passes the Congress within 6 days after transmittal.

(c) Provides that the President can call Congress into session to consider a joint resolution to activate a standby disruption management program.

(d) Recognizes these provisions as an exercise of the rulemaking powers of each House.

Specifies the language of the activation resolutions.

Provides for referral of activating resolutions to the Committee on Energy and Natural Resources in the Senate and to the Committee on Energy and Commerce in the House.

Provides for discharge of activating resolutions after 2 days of Committee consideration.

Provides for expedited floor procedures in consideration of an activating resolution. Limits debate to 10 hours on the resolution.

(e) Allows activating resolutions to be initiated in the Congress upon sponsorship of a joint resolution of approval by 8 Senators or 25 Congressmen.

(f) Provides that a petroleum disruption management program once activated can only be extended beyond 120 days by reauthorization through a joint resolution of approval according to the procedures described above.

TITLE II.—PRIVATE CRUDE OIL AND PETROLEUM PRODUCT STORAGE INCENTIVES

Sec. 201. Oil Storage Tax Incentives Report.—

Requires the President to submit a report to the Congress on the use of tax incentives to encourage private stockpiling of crude oil and petroleum products during periods of glut and the use of tax incentives to encourage drawdowns of private stocks during disruption.

Although this legislation does not authorize any such tax incentives, the legislation envisions the use of private stocks to manage the first stages of all disruptions and tax incentives to be the only form of government intervention in small disruptions. The storage tax credit would be interrupted and the drawdown tax credit activated according to the provisions of Title I above.

TITLE III.—STRATEGIC PETROLEUM RESERVE AND PRIVATE DEDICATED RESERVE DISTRIBUTION

If reliance on the market and the drawdown of private stocks is not sufficient to prevent significant adverse impact from a crude oil or petroleum disruption, it is intended that the Strategic Petroleum Reserve be used as the primary government response to mitigate adverse impacts on the economy and to protect public health and safety. A Strategic Reserve containing 750 million barrels would allow the U.S. to meet a 20% shortfall for approximately 180 days with a sufficient cushion (100–200 million barrels) to satisfy defense needs.

However, it will be several years before the Strategic Petroleum Reserve reaches the 750 million barrel level. To manage substantial—but not severe—disruptions in the interim, the bill authorizes a limited crude oil allocation program to be used only after private stocks have been drawn down and the SPR is at a minimum security level (as specified by the Secretary).

Sec. 301. Definitions.—

"Crude oil runs to distillation units."

"Designated refiner" means a refiner who has sufficient crude oil available to operate above the national utilization rate (average) who is not a small or independent refiner.

"Independent refiner" means a refiner who produces less than 30 percent of the crude oil input to the refinery.

"Small refiner" means a refiner who controls refinery capacity less than 175,000 barrels per day.

"Qualified refiner" means a refiner who is eligible as a purchaser under the Strategic Petroleum Distribution Plan or the Private Dedicated Reserve Plan. The Secretary of Energy determines eligibility. The refiner must be a small and independent refiner. The refiner must show an insufficiency of crude oil availability that prohibits operation at or above 95 percent of the national utilization rate. The Secretary may by rule require that qualified refiners meet certain specifications such as efficiency, capacity to process heavy and sour crude oil and pre-disruption inventory levels. The Secretary may allow exceptions to the above qualifications where a refiner who would not otherwise be a qualified refiner shows that such designation would be necessary to protect public health and safety.

Sec. 302. Distribution from the Strategic Petroleum Reserve.—

(a) Authorizes the President to distribute up to 300,000 barrels per day for a period to exceed 90 days in a year from SPR without Congressional authorization to mitigate the impact of disruptions that have only regional impacts and do not require activation of any other disruption management programs.

(b) Amends the Energy Policy and Conservation Act to define "severe petroleum supply interruption" and "substantial crude oil supply disruption."

(c) Amends the Energy Policy and Conservation Act and declares it to be government policy to use the Strategic Petroleum Reserve to mitigate impacts resulting from supply disruptions.

(a) Amends the Energy Policy and Conservation Act to require that a new Strategic Petroleum Reserve Plan be submitted to the Congress within 120 days of the enactment of this Act and provides that the plan shall be considered by the Congress according to the provisions of section 552 (30 day two House approval) rather than section 551 (15 day one House veto).

(e) Amends EPCA to provide that a Strategic Petroleum Reserve Plan can only become effective if transmitted according to the provisions of this Act if approved according to the provisions of section 552 of EPCA and if activated according to Title I of this Act.

Amends EPCA to provide that amendments to the Strategic Petroleum Reserve Plan be considered according to section 552 (30 day two House approval) rather than section 551 (15 day one House veto).

(f) Amends EPCA to prescribe the conditions under which crude oil can be distributed from the Strategic Petroleum Reserve.

(g) Describes and defines the rule which the Secretary shall promulgate to provide for distribution of oil from the Strategic Petroleum Reserve. The rule will provide for allocating crude oil to qualified refiners at a price not to exceed the weight-averaged price of all crude oil sold in the U.S. over the previous 60 days.

Sec. 303. Amendment of the Strategic Petroleum Reserve Plan.—

Requires the Secretary to submit an amendment to the Strategic Petroleum Reserve Plan (not the same as the Distribution Plan) within 120 days of enactment to provide for integration of the provisions of this Act and the Energy Policy and Conservation Act.

Sec. 304. Temporary Reserve Storages—

Requires the Secretary of Energy to submit a report on the use of temporary storage (such as empty tankers and tankage) to rapidly increase the level of the SPR.

Sec. 305. Establishment of Private Dedicated Reserve Program—

(a) Requires the President to promulgate regulations for a limited crude oil allocation program which can only be activated by approval of a joint resolution in the Congress after a finding by the President that a substantial disruption exists.

(b) Describes and defines the rule for the Private Dedicated Reserve Program.

Requires designated refiners to provide crude oil which is available in excess of that needed to operate at the national utilization rate. Each and all designated refiners shall be required to make available an equal percentage of their base period runs such that the needs of qualified refiners for operation at 95% of the national utilization rate are met.

Provides that qualified refiners can purchase crude oil sufficient to operate at 95% of the national utilization rate at the weight-averaged price of all crude oil sold in the U.S. over the previous 60 days.

The definition of designated refiners provides that extraordinary inventories acquired and maintained by designated refiners in anticipation of a disruption shall not be available for re-allocation under this program.

(c) Requires the Secretary to consult with the Energy Advisory Committee in designing the Private Dedicated Reserve Program.

Sec. 306. Report on Use of Strategic Petroleum Reserve.—

Requires the Secretary of Energy to submit a report within 180 days specifying the minimum level of the SPR which should be reserved for national defense purposes. This amount (100 to 200 million barrels) would not be available for distribution during a supply disruption.

TITLE IV.—NATIONAL CRUDE OIL SHARING

Sec. 401. National Crude Oil Sharing Program.—

(a) Requires the President to promulgate regulations for a crude oil sharing program to be approved according to Title I of this Act and only activated by approval of a joint resolution in the Congress after a finding by the President that a severe disruption exists or is imminent or the international energy program has been activated.

(b) Describes and defines the rule for the National Crude Oil Sharing Program. Requires refiners to make available for sale all supplies that are in excess of that necessary to operate at the national utilization rate. Assures that refiners without crude oil sufficient to operate at the national utilization rate can purchase excess supplies from other refiners at a price not to exceed the weight-averaged price for all crude oil sold in the U.S. over the previous 60 days. Provides the President with authority to determine product yields of specific refineries during a severe interruption. Provides the President with authority to set utilization rates for specific refineries during a severe interruption.

TITLE V.—PETROLEUM PRODUCT PROGRAMS

Sec. 501. Petroleum Production Disruption Management Programs.—

(a) Requires the President to promulgate regulations for a petroleum product management program according to Title I which can only be activated by approval of a joint resolution in Congress.

(b) Describes and defines the criteria for establishing allocation priorities under the regulations. These criteria include protection of public health, maintenance of public services, maintenance of agricultural operations, preservation of a competitive petroleum industry, regional equity in pricing and supply and economic efficiency.

Provides authority to manage petroleum product prices by limiting margins from refiner through distributor, but provides dollar-for-dollar pass through of any net cost increases.

(c) Authorizes a state set-aside program that can be activated on a state-by-state basis by the President upon request of the Governor.

Sec. 502. Gasoline Rationing.—

Amends EPCA to extend the time period during which the President may propose or carry out a contingency rationing program.

TITLE VI.—ESTABLISHMENT OF ADVISORY, DATA COLLECTION AND COORDINATION FUNCTIONS

Sec. 601. Establishment of Energy Emergency Council.—

(a) Authorizes the creation of a cabinet-level advisory group including the Secretaries of Energy, State, Defense, Agriculture, Commerce, Transportation, Interior and Labor.

(b) Authorizes the Council to advise the President on management of petroleum disruptions and to consult with the Energy Advisory Committee.

Sec. 602. Establishment of Energy Advisory Committee.—

(a) Authorizes the creation of a 10 to 30 member group representing the petroleum industry and petroleum consumers.

(b) Authorizes the Committee to advise the President and the Council on management of petroleum disruptions.

(c) Requires that all records of the Committee be available to the public.

(d) Applies the provisions of the Federal Advisory Committee Act to the activities of the Committee.

Sec. 603. Information Collection and Monitoring.—

(a) Requires a review of existing energy

information collection and monitoring systems to determine whether current sources are sufficient to support the disruption management programs authorized by the Act.

(b) Requires the Secretary to inform the Administrator of the Energy Information Administration on the adequacy of the current systems and the need for changes to support the disruption management programs.

(c) Authorizes the Secretary to collect and maintain adequate information to support the programs authorized by this Act.

(d) Provides a method for the Secretary to seek additional authority to collect and maintain information.

(e) Provides that information collected in support of the disruption management programs shall be available to the public with the exception of proprietary information.

Sec. 604. Coordination with Other Energy Emergency Authorities.—

Requires the Secretary to prepare and transmit to Congress a report on the integration of existing energy emergency authorities with the petroleum disruption management programs authorized by this Act.

TITLE VII.—MISCELLANEOUS PROVISIONS

Sec. 701. Administration and Enforcement.—

Extends existing administration and enforcement procedures to support disruption management programs.

Provides for penalty upon violation of provisions of this Act.

Sec. 702. Amendment to Department of Energy Organization Act.—

Provides an exception procedure to rules and regulations promulgated under authority of this Act.

Sec. 703. Extension of EPCA Authorities.—

Extends the antitrust exemption for participation in IEP through October 1, 1989.

Extends authorization for Titles I (Domestic Supply and SPR) and Title II (Emergency Authorities and International Energy Program) through October 1, 1989.

Sec. 704. Effect on Other Law.—

Preempts other law including any state or local law providing for allocation or price control of crude oil or petroleum.

Sec. 705. Sunset.—

Provides that authority under this Act expires on October 1, 1989.

Mr. ANDREWS. Mr. President, it is with great pleasure that I join today with my distinguished colleague from Minnesota in introducing the Petroleum Disruption Management Act of 1981.

This bill is intended to provide the President with the necessary tools to manage petroleum disruptions of varying magnitudes and causes in a timely and effective manner. Our overriding objective is to minimize adverse short- and long-term effects of petroleum disruptions on the American people and the economy. As a Senator representing a State where agriculture is the dominant industry, I have a particular interest in assuring a dependable supply of petroleum products to that industry.

We must face the harsh reality that this Nation will remain vulnerable to petroleum supply disruptions for the foreseeable future. Our allies will be even more vulnerable. We have lived through four disruptions in the past 8 years, and there is no evidence to suggest that the future holds anything but the continued potential for instabilities in the world petroleum community.

Mr. President, oil is increasingly becoming a potent political weapon, and governments in many producing nations face uncertain tenure. A number of studies have recently pointed out that the United States is even more vulnerable to supply disruptions because the international oil companies no longer have the predominant control at the wellhead in producing nations that existed just a decade past.

The Emergency Petroleum Allocation Act of 1973 is scheduled to expire on September 30, 1981. This act contains authorities which recognize agriculture's priority needs and accords the President the power to deal with petroleum disruptions through actions such as crude oil and products allocation. It is imperative that this Congress and the administration move forward in an expedited fashion so that the President will have appropriate authorities on a standby basis at his disposal for dealing with future disruptions.

Mr. President, we are most fortunate to have a unique opportunity to carry out this legislative process in the relatively calm environment which now exists. We cannot afford to wait until the next emergency to make the difficult decisions before us. The chaos that would occur could destroy our progress toward economic recovery and undoubtedly would lead to bad legislation crafted in the midst of crisis.

The Petroleum Disruption Management Act of 1981 has been carefully written with an eye toward keeping the level of Government involvement in the marketplace at a minimum, dictated by the nature and severity of a particular disruption, while dealing effectively with the problems which occur. Government could not and would not intrude into the petroleum marketplace if there are no disruptions. The decontrolled marketplace would be permitted to operate.

This act provides for the development of a set of management tools designed and placed on the shelf for selection and use by the President in the event of a disruption. Thus, a given program or programs can be activated in a timely fashion and tailored to respond to the problems generated by a particular disruption.

This approach is far superior to waiting until a disruption actually occurs before attempting to construct the actual mechanics in the midst of a crisis atmosphere. It is unlikely that any response developed in such a manner could be timely, and problems would deteriorate more than necessary.

The tools to be developed under this act recognize that disruptions require different responses, depending upon their characteristics and severity. They are also targeted toward minimizing the damaging pressures, on spot market prices in avoiding regional supply imbalances, both of which are prevalent consequences of disruptions.

In examining how disruptions have actually occurred, it is quite evident that they tend to be focused upon certain regions. Thus, very serious problems occur in certain areas long before a disruption reaches crisis levels for the Nation as a whole. I am most familiar with how past disruptions have impacted people in my part of the country.

Looking back to the spring of 1979, farmers and other residents in North Dakota were desperately short of fuel—particularly diesel fuel required for spring planting. My office was swamped with requests for assistance, and our staff worked on this problem around the clock in trying to locate alternate supplies, usually at larcenous prices.

In 1979, diesel fuel had been decontrolled for several years, so Government regulations could not be blamed. The Government was forced back into product allocation through Special Rule No. 9, and some diesel fuel was moved to farmers. We were extremely fortunate to "muddle through" that crisis and still get the crops in and the grain harvested.

This situation was repeated throughout most rural areas in the Midwest and the Great Plains—the country's agricultural heartland. Yet these shortages occurred at a time when the record clearly showed that imports were at a higher level than they had been in the prior year. In addition, crude oil prices jumped 150 percent during the 12 months following the Iranian Revolution. Unfortunately, oil price increases ratcheted by disruptions never returned to previous levels.

Even a casual assessment clearly reveals that such problems evolved unnecessarily, as many refineries serving rural areas suffered sharp reductions in crude oil supplies—again, at a time when there was no real shortage. Some refineries were forced to run at half of capacity. Yet other refiners, operating at close to full capacity, failed to provide diesel fuel to rural areas until ordered to by the Government.

Mr. President, the Petroleum Disruption Management Act of 1981 authorizes use of crude oil from the strategic petroleum reserve for alleviating regional shortages, once the SPR has been filled to adequate levels. The President could also provide for access to crude oil for refiners who have lost supplies through the private dedicated reserve. It is anticipated that the SPR would replace the private reserve function within a few years.

These first two programs are intended to permit the distribution system to operate in a balanced fashion to cope with regional imbalances. In the event of a true national shortage, the national crude sharing program would provide for sharing of crude oil among all regions and areas. In the event that inadequate supplies of petroleum products are available for critical sectors of the economy, the President would have the authority to impose product allocation measures, recognizing home heating oil requirements, agricultural uses, and other specified priority uses.

The SPR, PDR, national crude sharing, and standby product authorities would be developed within 120 days of enactment of this legislation with a review by Congress. Then they will be placed on the shelf until needed. Obviously, it is our common hope that disruptions will not occur and there will be no need.

The President will have the discretionary authority to activate any of these programs. In the event of regional shortages, the President may employ the private dedicated reserve or limited use of

the strategic petroleum reserve. If Congress determines that regional shortages require such action and the President takes no action, the Congress can initiate such action through passage of a joint resolution.

In the event of a severe national supply interruption, the President may act through more extensive use of the strategic petroleum reserve, national crude sharing, or standby product authorities. However, such action can be undertaken only if Congress passes a joint resolution, with the President retaining veto rights.

Mr. President, this system of checks and balances maintains the dual responsibilities of the President and the Congress in determining how petroleum disruptions are to be addressed. It is a system of checks and balances which would minimize the opportunity for unresponsive or overzealous action.

The President would be advised on disruption policy by a Cabinet-level Emergency Energy Council and an industry energy advisory committee, which would include all segments of the petroleum industry, consumers, and priority users. The act would also provide for the information collecting and monitoring necessary for development and implementing of disruption management policies.

No program activated under this act can be operated for more than 120 days without reauthorization. Its authors are determined to avoid perpetuating Government involvement beyond the actual period of disruption.

I am particularly concerned about the impacts of petroleum disruptions upon agriculture and rural America. In the search for appropriate solutions, I have endeavored to express these concerns in a number of instances. For example, 27 of my colleagues have joined me in expressing our views in a resolution relating to assurance of access to crude oil during disruptions for refiners serving the rural petroleum system. The resolution recognizes the predominant role played by farmer-owned oil-refining cooperatives and other independent refiners in satisfying 75 to 80 percent of all U.S. farm fuel needs, as well as the majority of fuel needs in rural communities.

Mr. President, last month I chaired hearings of the Oversight Subcommittee of the Senate Agricultural Committee on the energy needs of agriculture and rural America—in particular, the need to assure uninterrupted fuel supplies to this Nation's agricultural system. The record established during these 2 days of hearings clearly shows that past disruptions have impacted agricultural regions first and hardest, primarily as a result of crude oil supply losses experienced by refiners serving rural markets.

I was particularly impressed, as were many of my colleagues, by the almost universal expression of support shown at these hearings by not only our most prominent general farm organizations, but by commodity groups and many others intimately associated with the entire "food chain"—from production, to processing, to marketing.

I would like to have my colleagues know of this diverse but unanimous expressions of concern and for those of my colleagues who have some familiarity with the frequent competitiveness between certain organizations, I think they will be pleased to learn that on the question of assuring reliable energy supplies to agriculture, there is no disagreement.

We had witnesses and statements from the American Farm Bureau Federation, the National Farmers Union, the National Grange, and the National Council of Farmer Cooperatives.

From commodity groups, we were encouraged by the comments of the National Cotton Council, the National Milk Producers Association, the American Soybean Association, the National Association of Wheat Growers, the International Apple Institute, and both the National and the American Frozen Food organizations.

Among others in the processing and marketing fields, we heard from the National Food Processors Association, and American Bakers Association, the Food Marketing Institute, the Milk Industry Foundation—representing the International Association of Ice Cream Manufacturers. Additionally, my resolution and the thrust of the hearings was supported strongly by the American Association of Engineering Societies and the National Association of the State Departments of Agriculture.

Mr. President, I have every reason to believe that this impressive array of initial supporters and witnesses will be augmented many times over by the spokesmen for the millions of people engaged in the entire food delivery chain. For nothing is more important to our Nation than to continue unabated the delivery of wholesome and plentiful supplies of food at reasonable costs.

It was also made clear at my hearings that continuing market withdrawals from rural areas by major oil companies placed an even heavier responsibility for supplying agricultural needs in the hands of farmer-owned and other independent refiners.

As a result of these hearings, I committed myself to work with the leadership in both Houses of Congress to pursue legislation which would create post-EPAA authorities designed to deal with the needs not only of agriculture but also to minimize unnecessary impacts of disruptions across the economy.

The Petroleum Disruption Management Act of 1981 represents the fruits of these labors, and we believe the most appropriate means of addressing future disruptions.

Mr. President, the following remarks were made by me at the opening of the hearings of the Agriculture Subcommittee:

As I am sure you know, I am a farmer and proud of it. I have been all my life, as was my father and grandfather, and now my son. I am here representing what is probably the most agricultural State in the country—at least as measured in terms of North Dakota's annual gross income generation. As our farmers prosper or suffer, so do all our people.

Less than 3 million farm families produce enough food and fiber to feed and clothe 225 million Americans. These same farm families also export enough agricultural products to pay for half of our $80 billion annual bill for oil imports. The high level of this agricultural productivity depends heavily on critical petroleum fuel supplies. To achieve full food and fiber production, farmers must have fuel when they need it. Indeed, the perishability of food dictates that this holds true for the entire food system.

Farmers have increasingly turned to their own cooperatives to assure themselves of more secure fuel supplies, better quality service, and fairer prices. Farmer-owned refineries now represent only 2.5 percent of the total U.S. refining capacity, but supply about 45 percent of all onfarm petroleum fuels, with distribution of petroleum products occurring in more than 40 States. Cooperatives and other independents combined supply about 75 percent of onfarm use. In addition, many rural communities—the infrastructure so vital to the farm system—rely heavily upon the cooperative petroleum system for their fuel needs. According to the Department of Agriculture, more than 1,000 communities are supplied totally or predominantly by farmer cooperatives.

This responsibility is increasing for cooperatives and other independent petroleum operations due to major oil company withdrawals from sparsely populated, less profitable rural markets. Two of the majors have already completed their pullout in my State of North Dakota.

The rural petroleum system is a fragile one at best, and which is extremely vulnerable to supply disruptions. The system is an efficient one, and alternative suppliers cannot fill this void in a timely fashion when shortages occur. Without continued fuel supplies on a timely basis we are not going to be able to produce grains and other vital food at the phenomenal rate the American public has come to take for granted. It is just that simple.

USDA studies indicate that America's food costs are very sensitive to events in the energy arena. For example, one estimate is that a 10-percent fuel shortage at the farm could lead to as much as a 55-percent increase of farm commodity prices. This cannot be allowed to happen.

Sharp rises in energy costs are also cause for concern. Each 10-percent increase in energy costs across the food system can raise food prices more than 1 percent. Farmers themselves are price takers, and large-energy price increases could impair the ability of many family farms to survive.

Mr. President, we cannot allow a disruption of fuel supplies to agriculture. Mother Nature dictates that timing is critical in the production of food. Should fuel supply disruptions, even of short duration, occur at the wrong time, an entire season's production can be lost. Policymakers must recognize the impact of such an event, not only on the farmer, who makes up less than 5 percent of the population, put upon all of this Nation's consumers and indeed the world community. It would be the height of folly to jeopardize the critical economic activity of the individual farmer and the entire agricultural system in serving one of the most basic of human needs—that of food. In order to continue to perform this vital role, agriculture must have uninterrupted access to essential fuels.

In conclusion, Mr. President, I want my colleagues to know that I have consistently supported and applauded President Reagan's decontrol of petroleum. The signals are clear that a number of positive benefits are resulting. Fuel supplies are currently abundant, and recently the consumer has benefited from slightly lower fuel prices. Petroleum exploration and production activities are moving forward at a record pace. Con-

sumers and industrial users are going to great lengths to conserve energy, and import levels are down considerably. Free enterprise must be encouraged as much as possible. I will do my share to support free enterprise.

The critical remaining task before us now is to plan for future disruptions, learning as much as possible from painful past experiences. We cannot leave a void in this critical dimension of national policy, or make false promises. Nor can we leave the burden of standby authorities to 50 State governments.

I fully intend to work with all my power for passage of the Petroleum Disruption Management Act of 1981. I urge my distinguished colleagues to join with us as cosponsors of this bill in the pursuit of providing our Nation with appropriate means of dealing with petroleum disruptions.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1477. A bill to require the Secretary of Labor to submit an annual report on child day care services; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mrs. HAWKINS, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1478. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for expenses for household and dependent care services necessary for gainful employment, to provide a credit for employers who provide such services, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. TSONGAS, and Mr. WILLIAMS):

S. 1479. A bill to amend the Internal Revenue Code of 1954 to exclude from the income of an employee certain adoption expenses paid by an employer, to provide a deduction for adoption expenses paid by an individual, and for other purposes; to the Committee on Finance.

S. 1480. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of foster children as dependents of taxpayers; to the Committee on Finance.

S. 1481. A bill to amend title II of the Social Security Act to eliminate gender-based distinctions under the old-age, survivors, and disability insurance program; to the Committee on Finance.

STRONGER AMERICAN FAMILIES

Mr. METZENBAUM. Mr. President, I am today introducing the Stronger American Families Act of 1981. a package of five bills designed to address the changing needs of families and children in the areas of child care, adoption, foster care, and social security. Senators HAWKINS, TSONGAS, and WILLIAMS have joined me as cosponsors of various parts of this package. I look forward to working with them and with other Senators to secure its enactment.

The Stronger American Families Act recognizes and responds to the fact that the real world in which American families live in the eighties is very different than it was even a few years ago. The package realistically addresses the changing roles of women, the rising costs of adoption and foster care, the irrational gender-based distinctions in the social security system, and the rapid growth in our population of senior citizens.

Ten years ago, Mr. President, 39 percent of the Nation's children had mothers in the work force. But today, the children of working mothers make up fully 50 percent of all American youngsters below the age of 18.

In the years to come, that percentage is virtually certain to grow for the simple reason that in today's economic climate, fewer and fewer families can get by, much less get ahead, on one income. The working mother is an economic necessity—and she is here to stay.

But unfortunately, Mr. President, the child care facilities available to working families have not expanded to match the movement of mothers into the workforce. In too many cases, children must be left, often for several hours a day, without adequate supervision.

A majority of American families have identified child care as an area in which Government policies must be more responsive. In a recent Gallup poll, 67 percent of those surveyed supported tax credits for businesses to provide on-site child care, and 70 percent supported tax credits to assist families in meeting child care expenses. In selecting items which they believed would most help families in coping with competing demands on work and family responsibility, 28 percent of those polled selected on-site child care facilities.

In order to assist businesses in providing badly needed child care for their employees, this legislation shortens the depreciation time for employer-provided facilities from the current 5 years to 3.

In addition, it excludes from employee income the value of such services provided by employers who choose to contract out day care programs to other organizations.

The bill also recognizes that most working parents are not fortunate enough to be employed by companies that offer their own day care programs. It therefore strengthens substantially the existing day care tax credit for all working parents and provides special assistance to middle- and lower-income families.

Under current law, taxpayers may claim as a tax credit, 20 percent of their first $2,000 in day care expenses. The bill raises the maximum expenses to $2,400 for all taxpayers and, in order to help those who need it most, adds 1 percent to the 20 percent credit for each thousand dollars by which a family's annual income falls below $40,000. The maximum tax credit under this provision is 50 percent of day care expenses for which families earning $10,000 per year or less would be eligible.

Finally, Mr. President, I want to point out that this legislation will be of real assistance to the working parents of handicapped children by permitting them to claim tax credits for the expense of placing such children in special day care programs for the handicapped.

Under existing law, eligibility is limited to the cost of in-home care, an expense so great that parents have been forced to institutionalize children they would prefer to keep at home. That, Mr. President, should not be happening in this country.

QUALITY CARE

In order to monitor the impact of the dependent care amendments on the quality and quantity of child care services the second bill in this package directs the Secretary of Labor to report annually to Congress on the status of child care arrangements. Senators HAWKINS, WILLIAMS, and TSONGAS join me in introducing this legislation.

FOSTER CARE

It is a sad fact, Mr. President, that most kennels charge more to board dogs than most States pay foster parents to board children. And it is also true that the tax code provides inequitable treatment to foster parents as compared to parents caring for their natural children. The intent of this component of the stronger American Families Act, which has the cosponsorship of Senators TSONGAS and WILLIAMS and the endorsement of the National Foster Parents Association, is to end those inequities by permitting foster parents to treat foster children as their dependents for tax purposes.

Mr. President, I believe that we should encourage—not discourage—families that are willing to open their homes to needy children. This tax concession is a small step in that direction.

ADOPTION BENEFITS

At least 30 major companies have in recent years begun to assist their employees with the costs incurred in adopting children. IBM, for example, has had an adoption assistance program since 1972 and has averaged approximately 350 to 400 claims per year. Smith-Kline Corp. initially paid employees $400 per adoption when it initiated its program. Now, Smith-Kline pays $750 and intends to increase the benefit each year until the amount of the benefit is comparable to the cost of a normal obstetric delivery.

More corporations should be encouraged to take such socially responsible positions, but unfortunately, they are today discouraged by the tax code from doing so. Adoption assistance is considered regular income for tax purposes and so the companies giving it incur added costs for social security taxes and an extra burden of paperwork. That should not be—and this bill corrects the inequity by excluding adoption benefits from employee income.

In addition, Mr. President, the bill permits families that adopt to claim the costs of adoption as a tax deduction—that, I believe, is a small but very helpful posture by this Nation to those who take in as their own any of the 120,000 American children who need a home.

I am pleased to say that this component has the cosponsorship of Senators WILLIAMS and TSONGAS and the endorsement of the National Committee for Adoption.

SOCIAL SECURITY AND SEX DISCRIMINATION

In the 1930's, Congress enacted the basic income maintenance program in the United States, social security. The design of the program largely reflects the generally accepted sex roles and lifestyles prevailing at that time. But since the 1930's, American women have moved in large numbers into occupations and have attained levels of education that were in the past available to very few.

In 1940, only 17 percent of all married women held jobs. Today, that figure is fast approaching 50 percent. But even so, the social security system continues to treat women as economic dependents rather than as earners in their own right. The system often leaves women without full protection in the event of death of the husband or divorce. In some areas the system fails to treat the wage record of a woman equally with that of a man by denying benefits to a husband based on his wife's wage record.

Although Congress enacted the Equal Pay Act of 1963 and title VIII of the Civil Rights Act, it has yet to address all of the inequalities in social security benefits.

In 1977, legislation designed to eliminate gender-based distinctions in the Social Security Act overwhelmingly passed the House. The Senate, however, determined that more information was necessary on the impact of the proposed changes and so directed the Department of Health, Education, and Welfare to conduct a study and report to Congress.

That report is now in and the bill I am introducing today is based on its findings.

According to the report there still exist nine gender-based distinctions which are not founded on any supportable rationale. The costs of eliminating these provisions would amount to only $5 million in each of the next few years, with the amount diminishing over time. The Advisory Council on Social Security and Working Women concurs with my view that the time has come to eliminate these last vestiges of discrimination in the social security system.

Mr. President, I ask unanimous consent that section-by-section analysis of the "Stronger American Families Act of 1981" and text of the legislation itself be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Beginning in calendar year 1982, the Secretary of Labor shall submit an annual report to the Congress concerning the availability and quality of child day care services provided in the United States.

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dependent Care Amendments Act of 1981".

SEC. 2. INCREASE IN PERCENT OF EXPENSES ALLOWED AS CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 44A of the Internal Revenue Code of 1954 (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended by striking out "20 percent" and inserting in lieu thereof "the applicable percentage".

(b) APPLICABLE PERCENTAGE DEFINED.—Subsection (b) of section 44A of such Code is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the term 'applicable percentage' means the greater of—

"(1) 50 percent reduced by one percentage point for each $1,000 amount by which the taxpayer's adjusted gross income exceeds $10,000, or

"(2) 20 percent.".

SEC. 3. CREDIT MADE REFUNDABLE.

(a) GENERAL RULE.—Subsection (b) of section 6401 of the Internal Revenue Code of 1954 (relating to excessive credits treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44A (relating to expenses for household and dependent care services necessary for gainful employment)", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44A".

(b) AMENDMENT OF SECTION 44A.—Subsection (a) of section 44A of such Code is amended by striking out "the tax imposed by this chapter" and inserting in lieu thereof "the tax imposed by this subtitle".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 53 of such Code (relating to limitation based on amount of tax) is amended by adding "and" at the end of paragraph (4), by striking out the comma at the end of paragraph (5) and inserting in lieu thereof a period, and by striking out paragraphs (6) and (7).

(2) Sections 44C(b)(5), 44D(b)(5), 44E(e)(1) 55(c)(4), and 56(c) of such Code are each amended by striking out "and 43" and inserting in lieu thereof "43, and 44A".

(3) Paragraph (2) of section 55(b) of such Code is amended by striking out "and 43" and inserting in lieu thereof ", 43, and 44A".

(4) Subsection (b) of section 6096 of such Code is amended by striking out "44A,".

SEC. 4. INCREASE IN DOLLAR LIMIT.

(a) GENERAL RULE.—Subsection (d) of section 44A of the Internal Revenue Code of 1954 (relating to dollar limit on amount creditable) is amended—

(1) by striking out "$2,000" and inserting in lieu thereof "$2,400", and

(2) by striking out "$4,000" and inserting in lieu thereof "$4,800".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 44A(e) of such Code (relating to special rule for spouse who is a student or incapable of caring for himself) is amended—

(1) by striking out "$166" and inserting in lieu thereof "$200", and

(2) by striking out "$333" and inserting in lieu thereof "$400".

SEC. 5. CREDIT ALLOWED FOR CERTAIN SERVICES OUTSIDE TAXPAYER'S HOUSEHOLD.

Subparagraph (B) of section 44A(c)(2) of the Internal Revenue Code of 1954 (defining employment-related expenses) is amended to read as follows:

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only—

"(i) if, in the case of care and services provided by a child care center (as defined in subparagraph (C)) such center complies with all applicable laws and regulations of a State or unit of local government, and

"(ii) if such expenses are incurred for—

"(I) the care of a qualifying individual described in paragraph (1)(A), or

"(II) the care of a qualifying individual described in subparagraph (B) or (C) of paragraph (1) who ordinarily returns to the taxpayer's household each day.

"(C) CHILD CARE CENTER DEFINED.—For purposes of this paragraph, the term 'child care center' means any child care facility which—

"(i) provides child care for more than six children (other than children who reside at the facility), and

"(ii) receives a fee, payment, or grant for providing services for any of the children (regardless of whether such facility is operated for profit).

Such term shall not include a facility which regularly provides care for six, or fewer, children (other than children who reside at the facility) and which serves as the residence of the individual operating the facility.".

SEC. 6. APPLICATION OF EARNED INCOME LIMITATION IN CASE OF INDIVIDUALS ENGAGED IN BUSINESS ON SUBSTANTIALLY FULL-TIME BASIS.

Subsection (e) of section 44A of the Internal Revenue Code of 1954 (relating to earned income limitation) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN INDIVIDUALS ENGAGED IN BUSINESS ON SUBSTANTIALLY FULL-TIME BASIS.—

"(A) IN GENERAL.—For purposes of paragraph (1), for each month during which an individual engages in a trade or business on a substantially full-time basis, such individual shall be deemed to have earned income of not less than—

"(i) $200 if subsection (d)(1) applies for the taxable year, or

"(ii) $400 if subsection (d)(2) applies for the taxable year.

"(B) DEFINITION.—For purposes of subparagraph (A), an individual shall be treated as engaged in a trade or business during any month on a substantially full-time basis if, during each week beginning during such month, such individual performs at least 35 hours of services in such trade or business.".

SEC. 7. EXEMPTION FROM TAX FOR CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE.

(a) GENERAL RULE.—Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of nonresidential dependent care of individuals if—

"(1) substantially all of the dependent care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public.".

(b) CROSS REFERENCES.—

(1) Subsection (i) of section 170 of such Code is amended by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing dependent care, see section 501(j).".

(2) Subsection (f) of section 2055 of such Code is amended by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For treatment of certain organizations providing dependent care, see section 501(j).".

(3) Subsection (d) of section 2522 of such Code is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of certain organizations providing dependent care, see section 501(j).

"(2) For examples of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f).".

SEC. 8. EXCLUSION OF QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES FROM THE INCOME OF AN EMPLOYEE.

(a) EXCLUSION FROM INCOME.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and inserting after section 127 the following new section:

"SEC. 128. QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES.

"Gross income of an employee does not include the value of any qualified household and dependent care services (as defined in section 44F(b)) furnished to such employee by, or on behalf of, his employer.".

(b) EXCLUSION FROM WAGES.—

(1) EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX.—Subtitle C of such Code is amended by striking out "section 127" in section 3121(a)(18) (relating to the Federal Insurance Contributions Act), section 3306(b)(13) (relating to the Federal Unemployment Tax Act), and section 3401(a)(19) (relating to collection of income at source on wages) and inserting in lieu thereof "section 127 or 128".

(2) SOCIAL SECURITY ACT.—Subsection (q) of section 209 of the Social Security Act (defining wages) is amended by striking out "section 127" and inserting in lieu thereof "section 127 or 128".

(c) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"128. Qualified household and dependent care services.

"129. Cross references to other Acts.".

SEC. 9. ALLOWANCE OF A CREDIT FOR HOUSEHOLD AND DEPENDENT CARE SERVICES PROVIDED BY AN EMPLOYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. HOUSEHOLD AND DEPENDENT CARE SERVICES PROVIDED BY EMPLOYER.

"(a) IN GENERAL.—In the case of an employer (as defined in section 3401(d)) who provides qualified household and dependent care services to his employees, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess of—

"(1) the expenses paid or incurred by such employer during the taxable year in providing such services to his employees, over

"(2) the amount of remuneration, if any, paid to such employer by his employees for providing such services during the taxable year.

"(b) QUALIFIED HOUSEHOLD AND DEPENDENT CARE SERVICES.—For purposes of this section, the term 'qualified household and dependent care services' means those services which if paid for by the employee would be considered employment-related expenses under section 44A(c)(2).

"(c) CAPITAL EXPENSES.—The expenses which may be taken into account under subsection (a) in determining the amount of the credit shall not include any amount paid or incurred by the employer which is chargeable to capital account.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, and 44A. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under this chapter with respect to any amount for which a credit is allowed under this section.

"(f) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44E the following:

"Sec. 44F. Household and dependent care services provided by employer.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

SEC. 10. CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.

(a) AMORTIZATION.—

(1) IN GENERAL.—Section 188 of the Internal Revenue Code of 1954 (relating to amortization of certain expenditures for child care facilities) is amended to read as follows:

"SEC. 188. AMORTIZATION OF CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.

"(a) ALLOWANCE OF DEDUCTIONS.—

"(1) IN GENERAL.—At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary, each of the following amounts shall be allowed as a deduction ratably over a period of 36 months:

"(A) An amount equal to the adjusted basis (as defined in section 1011) of any section 188 property of such taxpayer determined at the time such property is initially placed in service.

"(B) Any amount chargeable to capital account incurred by the taxpayer with respect to section 188 property after such property has been placed in service.

Each amount described under subparagraph (A) or (B) shall be reduced by the amount of the deduction, if any, allowed under paragraph (3) which is attributable to any portion of the amount described in such subparagraph.

"(2) PERIOD OF AMORTIZATION.—The period referred to in paragraph (1) shall begin with—

"(A) the month in which the section 188 property is placed in service, or

"(B) in the case of amounts described in paragraph (1)(B), the month after the month in which such basis was acquired.

"(3) ADDITIONAL FIRST YEAR DEPRECIATION.—In addition to any deduction allowed under paragraph (1), there shall be allowed, at the election of the taxpayer, as a deduction for the taxable year in which any section 188 property is placed in service an amount equal to any additional allowance which the taxpayer could elect under section 179 with respect to such property if the taxpayer elected the deduction under section 167 rather than the deduction under paragraph (1).

"(4) APPLICATION WITH OTHER DEDUCTIONS.—The deductions provided by this subsection with respect to any expenditure shall be in lieu of any depreciation deduction otherwise allowable on account of such expenditure.

"(b) DEFINITIONS.—For purposes of this section—

"(1) SECTION 188 PROPERTY.—The term 'section 188 property' means tangible property which—

"(A) is an integral part of a child care facility (as defined by regulations prescribed by the Secretary) in which—

"(i) at least a majority of all the children for whom care is provided during the taxable year (determined over the period of such taxable year) are children of employees of the taxpayer, and

"(ii) the care of each child is provided without charge or for a fee that is reasonably related to the operating costs incurred by the taxpayer in providing services to such child,

"(B) is of a character subject to depreciation, and

"(C) is located within the United States.

"(2) PLACED IN SERVICE.—The term 'placed in service' means placed in a condition or state of readiness and availability to function as section 188 property.

"(3) EMPLOYEES.—In the case of a child care facility operated by two or more employers, the employees of such an employer shall be considered the employees of each employer who operates such facility.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to expenditures incurred and property placed in service (as defined in the amendment made by paragraph (1)) after December 31, 1980.

(b) AVAILABILITY OF INVESTMENT CREDIT.—

(1) IN GENERAL.—Paragraph (8) of section 48(a) of such Code (relating to definitions and special rules for the investment credit) is amended by striking out "188,".

(2) USEFUL LIFE.—Paragraph (2) of section 46(c) of such Code (relating to qualified investment) is amended by inserting "(if amortized under section 188, the useful life which would have been used if depreciated under section 167)" after "section 167".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 1980, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(c) REAL PROPERTY AMORTIZED UNDER SECTION 188 SUBJECT TO RECAPTURE UNDER SECTION 1250.—

(1) IN GENERAL.—Subparagraph (D) of section 1245(a)(3) of such Code (relating to gain from dispositions of certain depreciable property) is amended by striking out "188,".

(2) EFFECTIVE DATE—The amendments made by this subsection shall apply to disposition made after December 31, 1980.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1980.

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM THE INCOME OF AN EMPLOYEE OF ANY BENEFITS RECEIVED FROM, OR CONTRIBUTIONS OF AN EMPLOYER TO, AN ADOPTION EXPENSE PLAN.

(a) EXCLUSION FROM INCOME.—Subsection (b) of section 105 of the Internal Revenue Code of 1954 (relating to amounts received under accident and health plans) is amended to read as follows:

"(b) MEDICAL CARE AND ADOPTION EXPENSES.—Except in the case of amounts received by a taxpayer attributable to, and not in excess of, deductions allowed under section 213 (relating to medical, etc., expenses) or section 221 (relating to adoption expenses) for any prior taxable year, gross income does not include—

"(1) amounts referred to in subsection (a) if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(e)(1)) of the taxpayer, his spouse, and his dependents (as defined in section 152), or

"(2) amounts—

"(A) received by an employee under an adoption expense plan, or

"(B) contributed by an employer on behalf of an employee to an adoption expense plan.".

(b) DISCRIMINATORY PLANS.—Subsection (h) of section 105 of such Code (relating to amounts paid under a discriminatory self-insured medical expense reimbursement plan) is amended—

(1) by striking out "self-insured medical reimbursement plan" each place it appears and inserting in lieu thereof "self-insured reimbursement plan",

(2) by inserting "or adoption benefits" after "health benefits" in clause (iv) of paragraph (3)(B), and

(3) by striking out "Self-Insured Medical Expense Reimbursement Plan" in the caption and inserting in lieu thereof "Self-Insured Reimbursement Plan".

(c) DEFINITION OF SELF-INSURED REIMBURSEMENT PLAN.—Paragraph (6) of section 105(h) of such Code is amended to read as follows:

"(6) SELF-INSURED REIMBURSEMENT PLAN.—For purposes of this section, the term 'self-insured reimbursement plan' means—

"(A) a plan of an employer to reimburse employees for expenses referred to in subsection (b)(1) for which reimbursement is not provided under a policy of accident and health insurance, or

"(B) an adoption expense plan.".

(d) DEFINITION OF ADOPTION EXPENSE PLAN.—Section 105 of such Code is amended by adding at the end thereof the following new subsection:

"(i) ADOPTION EXPENSE PLAN.—For the purposes of this section, an adoption expense plan is a written plan of an employer to reimburse employees for adoption expenses (as defined in section 221(b)) incurred by such employees.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of section 105 of such Code is amended by inserting "; ADOPTION EXPENSE PLANS" after "PLANS".

(2) The table of sections for part III of subchapter 8 of chapter 1 of such Code is amended by inserting "; adoption expense plans" after "plans" in the item relating to section 105.

(3) Paragraph (20) of section 3401(a) of such Code (relating to the collection of income tax at source) is amended—

(A) by striking out "medical care", and

(B) by striking out "self-insured medical reimbursement plan" and inserting in lieu thereof "self-insured reimbursement plan".

SEC. 2. DEDUCTION FOR ADOPTION EXPENSES PAID BY AN INDIVIDUAL.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the adoption expenses, not compensated by insurance or otherwise, paid or incurred by the taxpayer during the taxable year.

"(b) ADOPTION EXPENSES DEFINED.—For purposes of this section, the term "adoption expenses" means reasonable and necessary expenses incurred which are directly related to the legal adoption of a child by the taxpayer, including, but not limited to, legal fees, medical expenses, adoption fees, temporary foster care expenses, transportation costs, or expenses related to the pregnancy of the natural mother of such child, when said adoption has been arranged by a public welfare department (or similar State or local public social service agency with legal responsibility for child placement) or by a not-for-profit voluntary adoption agency authorized or otherwise licensed by the State or local government to place children for adoption and when said adoption expenses are not incurred in violation of State or Federal law.

"(c) DENIAL OF DOUBLE BENEFIT.—No amount which is taken into account in computing a deduction or credit under any other provision of this chapter shall be allowed as a deduction under this section.".

(b) ADJUSTED GROSS INCOME.—Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 221.".

(c) CONFORMING AMENDMENT.—The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Adoption expenses.
"Sec. 222. Cross references.".

SEC. 3. EMPLOYER CONTRIBUTION TO ADOPTION EXPENSE PLAN TREATED AS AN ORDINARY AND NECESSARY BUSINESS EXPENSE.

Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) CONTRIBUTIONS TO ADOPTION EXPENSE PLAN.—For purposes of subsection (a), any contribution made by an employer to an adoption expense plan (as defined in section 105(i)) for, or on behalf of, an employee shall be treated as an ordinary and necessary expense incurred in carrying on a trade or business.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1980.

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 152 of the Internal Revenue Code of 1954 (relating to rules relating to general definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of subsection (a), in the case of an individual who—

"(A) for at least 270 days during the calendar year in which the taxable year begins had a foster child (whether or not the same child) whose principal place of abode was the individual's home and who was a member of the individual's household, and

"(B) provided over half of the support for any foster child during any period taken into account with respect to such foster child under subparagraph (A),

such individual shall be treated as having (in addition to any other children of such individual) one child by blood who has not attained the age of 19 before the close of such calendar year and with respect to whom such individual has provided over half of such child's support for such calendar year. For purposes of the preceding sentence, no foster child described in paragraph (2) shall be taken into account under this paragraph. For purposes of determining under this title the amount of expenditures on behalf of a dependent of a taxpayer, amounts paid or incurred on behalf of all foster children described in subparagraph (A) shall be treated as made on behalf of one child.".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1980.

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVORCED HUSBANDS

SECTION 1. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting "and every divorced husband (as defined in section 216(d))" before "of an individual", and by inserting "or such divorced husband" after "if such husband".

(2) Section 202(c)(1) of such Act is further amended—

(A) by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a divorced husband, is not married, and";

(B) by striking out "after August 1950" in the matter following subparagraph (D) (as so redesignated); and

(C) by striking out "the month in which any of the following occurs:" and all that follows and inserting in lieu thereof the following:

"the first month in which any of the following occurs:

"(E) he dies,

"(F) such individual dies,

"(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

"(H) in the case of a divorced husband, he marries a person other than such individual,

"(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

"(J) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.".

(3) Section 202(c)(3) of such Act is amended by inserting "(or, in the case of a divorced husband, his former wife)" before "for such month".

(4) Section 202(c) of such Act is further amended by adding after paragraph (3) the following new paragraph:

"(4) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), such divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage.".

(5) Section 202(c)(2)(A) of such Act is amended by inserting "(or divorced husband)" after "payable to such husband".

(6) Section 202(b)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(c)(1)(D) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "his wife" and inserting in lieu thereof "such individual".

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting "and every surviving

divorced husband (as defined in section 216 (d))" before "of an individual", and by inserting "or such surviving divorced husband" after "if such widower".

(2) Section 202(f)(1) of such Act is further amended by striking out "his deceased wife" in subparagraph (D) and in the matter following subparagraph (F) and inserting in lieu thereof "such deceased individual".

(3) Paragraphs (2), (3), (6), and (7) of section 202(f) of such Act are each amended by inserting "or surviving divorced husband" after "widower" wherever it appears.

(4)(A) Paragraph (3)(A) of section 202(f) of such Act is further amended by striking out "his deceased wife" and by inserting in lieu thereof "such deceased individual".

(B) Paragraph (3)(B) of section 202(f) of such Act is amended by striking out "deceased wife" each place it appears and inserting in lieu thereof "deceased individual", and by striking out "such wife" and inserting in lieu thereof "such deceased individual".

(5) Section 202(f)(4) of such Act is further amended by striking out "remarries" and inserting in lieu thereof "or a surviving divorced husband, marries", and by inserting "or surviving divorced husband's" after "widower's".

(6) Section 202(e)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(g)(3)(A) of such Act is amended by inserting "(c)," before "(f),".

(8) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," before "(e),".

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4) The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

"(5) The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.".

(2) The heading of section 216(d) of such Act is amended to read as follows:

"DIVORCED SPOUSES; DIVORCE".

(d)(1) Section 205(b) of such Act is amended by inserting "divorced husband," after "husband," and "surviving divorced husband," after "widower,".

(2) Section 205(c)(1)(C) of such Act is amended by inserting "surviving divorced husband," after "wife,".

FATHER'S INSURANCE BENEFITS

SEC. 2. (a) Section 202(g) of the Social Security Act is amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "wife's insurance benefits" in paragraph (1)(D) and inserting in lieu thereof "a spouse's insurance benefit";

(4) by striking out "he" in paragraph (1)(D) and inserting in lieu thereof "such individual";

(5) by striking out "her" wherever it appears and inserting in lieu thereof "his or her";

(6) by striking out "she" wherever it appears and inserting in lieu thereof "his or she";

(7) by striking out "mother" wherever it appears and inserting in lieu thereof "parent";

(8) by inserting "or father's" after "mother's" wherever it appears;

(9) by striking out "after August 1950"; and

(10) by inserting "this subsection or" before "subsection (a)" in paragraph (3)(A).

(b) The heading of section 202(g) of such Act is amended by inserting "and Father's" after "Mother's".

(c) Section 216(d) of such Act (as amended by section 1(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8), and by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'surviving divorced father' means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

"(7) The term 'surviving divorced parent' means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).".

(d) Section 202(c)(1) of such Act (as amended by section 1(a)(2) of this Act) is further amended by inserting "(subject to subsection (s))" before "be entitled to" in the matter following subparagraph (D) and preceding subparagraph (E).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after "62" the following: "or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual".

(f) Section 202(c)(1) of such Act (as amended by section 1(a)(2) of this Act) is further amended by redesignating the new subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by adding after subparagraph (H) the following new subparagraph:

"(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,".

(g) Section 202(f)(1)(C) of such Act is amended by inserting "(i)" after "(C)", by adding "or" after "223,", and by inserting at the end thereof the following new clause:

"(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65,".

(h) Section 202(f)(6) of such Act is amended by striking out "or" at the end of subparagraph (A), by adding "or" after the comma at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

"(C) the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual,".

REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE SIXTY

SEC. 3. Section 202(f)(1)(A) of the Social Security Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

CREDIT FOR CERTAIN MILITARY SERVICE

SEC. 4. Section 217(f) of the Social Security Act is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse", by striking out "his" the first three times it appears in paragraph (1) and inserting in lieu thereof "such veteran's", and by striking out "her" each place it appears in paragraph (2) and inserting in lieu thereof "his or her".

TRANSITIONAL INSURED STATUS

SEC. 5. (a) Section 227(a) of the Social Security Act is amended—

(1) by striking out "wife" wherever it appears and inserting in lieu thereof "spouse";

(2) by striking out "wife's" wherever it appears and inserting in lieu thereof "spouse's";

(3) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(4) by striking out "his" wherever it appears and inserting in lieu thereof "his or her"; and

(5) by inserting "or section 202(c)" after "section 202(b)" wherever it appears.

(b) Section 227(b) and section 227(c) of such Act are amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "her" wherever it appears and inserting in lieu thereof "the"; and

(4) by inserting "or section 202(f)" after "section 202(e)" wherever it appears.

(c) Section 216 of such Act (as amended by the preceding provisions of this Act) is further amended by inserting before subsection (b) the following new subsection:

"SPOUSE: SURVIVING SPOUSE

"(a)(1) The term 'spouse' means a wife as defined in subsection (b) or a husband as defined in subsection (f).

"(2) The term 'surviving spouse' means a widow as defined in subsection (c) or a widower as defined in subsection (g).".

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 6. (a) Section 228(b)(2) of the Social Security Act is amended—

(1) by striking out "the husband's benefit" and inserting in lieu thereof "each of their benefits"; (2) by striking out "$64.40" and inserting in lieu thereof "$48.30"; and

(3) by striking out everything after "section 215(i)" the first time it appears and inserting in lieu thereof a period.

(b) Section 228(c)(3) of such Act is amended to read as follows:

"(3) In the case of a husband or wife, both of whom are entitled to benefits under this section for any month, the benefit amount of each, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other is eligible for such month, over (B) the larger of $48.30 or the amount most recently established in lieu thereof under section 215(i).".

(c) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take account of any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act which occur after June 1974.

ILLEGITIMATE CHILDREN

SEC. 7. (a) Section 216(h)(3) of the Social Security Act is amended by inserting "mother or" before "father" wherever it appears, by striking out "his" wherever it appears and inserting in lieu thereof "his or her", and by striking out "he" in subparagraph (E) and inserting in lieu thereof "he or she".

(b) Section 216(h)(3)(A)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(c) Section 216(h)(3)(A)(ii) of such Act is amended by striking out everything after

"time" and inserting in lieu thereof "such applicant's application for benefits was filed;".

(d) Section 216(h)(3)(B)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(e) Section 216(h)(3)(B)(ii) of such Act is amended by striking out "such period of disability began" and inserting in lieu thereof "such applicant's application for benefits was filed".

TREATMENT OF SELF-EMPLOYMENT INCOME OF MARRIED COUPLES

SEC. 8 (a) Section 211(a)(5)(A) of the Social Security Act is amended to read as follows:

"(A) If two individuals are husband and wife and either of them derives any income from a trade or business (other than a trade or business carried on by a partnership), all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse who exercises the greater management and control of the trade or business; except that if each spouse exercises equal management and control of the trade or business, or the two spouses elect to be treated for purposes of this subparagraph as exercising equal management and control of the trade or business, such income and deductions shall be evenly divided between them.".

(b) Section 1402(a)(5)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

"(A) two individuals are husband and wife and either of them derives any income from a trade or business (other than a trade or business carried on by a partnership), all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse who exercises the greater management and control of the trade or business; except that if each spouse exercises equal management and control of the trade or business, or the two spouses elect to be treated for purposes of this subparagraph as exercising equal management and control of the trade or business, such income and deductions shall be evenly divided between them; and".

(c) The amendments made by this section apply with respect to taxable years beginning after December 1981.

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFITS AND ON OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

SEC. 9. (a) Sections 202(b)(3), 202(d)(5), 202(e)(3), 202(g)(3), and 202(h)(4) of the Social Security Act are each amended by striking out "; except that" and all that follows and inserting in lieu thereof a period.

(b) The amendments made by subsection (a) shall apply with respect to benefits under title II of the Social Security Act for months after December 1981, but only in cases where the "last month" referred to in the provision amended is a month after December 1981.

CONFORMING AMENDMENTS

SEC. 10. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 1(a)(6) of this Act) is further amended by inserting "(g)," after "(f),".

(b) Section 202(q)(3) of such Act is amended by inserting "or surviving divorced husband" after "widower" in subparagraphs (E), (F), and (G).

(c) Section 202(g)(5) of such Act is amended—

(1) by inserting "husband's or" before "wife's" each place it appears;

(2) by inserting "he or" before "she" each place it appears;

(3) by inserting "his or" before "her" each place it appears;

(4) by striking out "the woman" in subparagraph (B)(ii) and "a woman" in subparagraph (C) and inserting in lieu thereof "the individual" and "an individual", respectively; and

(5) in subparagraph (D), by inserting "or widower's" after "widow's", by inserting "wife or" before "husband" each place it appears, by inserting "wife's or" before "husband's" each place it appears, and by inserting "father's or" before "mother's".

(d)(1) Section 202(q)(6)(A)(i) of such Act is amended by striking out "or husband's" in subdivision (I), and by inserting "or husband's" after "wife's" in subdivision (II).

(2) Section 202(q)(7) of such Act is amended, in subparagraph (B), by inserting "or husband's" after "wife's", by inserting "he or" before "she", and by inserting "his or" before "her", and in subparagraph (D) by inserting "or widower's" after "widow's".

(e)(1) Section 202(s)(1) of such Act is amended by inserting "(c)(1)," after "(b)(1),".

(2) Section 202(s)(2) of such Act is amended by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4), of this section as precedes the semicolon," and inserting in lieu thereof "Subsections (b)(3), (d)(5), (c)(4), (e)(3), (f)(4), (g)(3), and (h)(4) of this section".

(3) Section 202(s)(3) of such Act is amended by striking out "So much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the" and inserting in lieu thereof "The".

(f) The third sentence of section 203(b) of such Act is amended by inserting "or father's" after "mother's".

(g)(1) The text of section 203(c) of such Act is amended to read as follows:

"(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

"(1) in which such individual is under the age of 70 and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States;

"(2) in which such individual, if a wife or husband under age 65 entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(g);

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or

"(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his deceased former spouse who (A) is his or her son, daughter, or legally adopted child, and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deductions shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).".

(2) With respect to taxable years ending on or before December 31, 1981, the number "70" in section 203(c)(1) of the Social Security Act (as amended by paragraph (1) of this subsection) shall be deemed to be "72".

(h) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1), and by inserting "or father's" after "mother's" each place it appears in paragraph (2).

(i)(1) Section 205(b) of such Act (as amended by section 1(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "mother,".

(2) Section 205(c)(1)(C) of such Act (as amended by section 1(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(j) Section 216(f) of such Act is amended by inserting "(c)," before "(f)" in clause (3)(A).

(k) Section 216(g) of such Act is amended by inserting "(c)," before "(f)" in clause (6)(A).

(l) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(m) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" each place it appears.

(n) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(o) Section 222(d)(1) of such Act is amended by inserting "and surviving divorced husbands" after "for widowers" in the matter following clause (iii).

(p) Section 223(d)(2) of such Act is amended by striking out "or widower" where it appears in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(q) Section 225 of such Act is amended by inserting "or surviving divorced husband" after "widower".

(r)(1) Section 226(e)(3) of such Act is amended to read as follows:

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower age 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits, be deemed to have filed for such widow's or widower's benefits.".

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of the Social Security Act, as amended by paragraph (1) of this subsection, an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of such disability within 12 months after the month in which this Act is enacted, under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow's or widower's benefits

referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow's or widower's benefits if he or she had filed a timely application therefor.

EFFECTIVE DATE

SEC. 11. Except as otherwise specifically provided in this Act, the amendments made by this Act shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1981.

SECTION-BY-SECTION ANALYSIS

A. DEPENDENT CARE AMENDMENTS

Section 2—Increase in credit percentage

The Internal Revenue Code currently permits a working individual to take a tax credit for day care costs equal to 20 percent of the expense, up to 20 percent of $2,000 (or $4,000 if the family has expenses for two or more dependents). Thus, the maximum credit, for all incomes, is $400 for one dependent, $800 for two or more.

This bill replaces the current credit of 20 percent of allowable expenses with a sliding credit based on family income. Families with incomes of $10,000 or less receive a 50 percent credit, with the credit reduced by 1 percent for each $1,000 increase in income—until the credit equals 20 percent. As income exceeds $40,000, the credit remains equal to the existing 20 percent level. This scale targets greater tax relief to those most in need of financial assistance in pursuit of employment.

Section 3—Refundable credit

Currently, the day care tax relief is applied as a credit against taxes owed. This bill would make the benefit refundable in cash to those families whose tax liability is less than the value of the credit. Allowing the credit to be refundable will assist mainly two dependent families with incomes below $20,000 and single dependent families with incomes below $14,000.

Section 4—Increase in allowable expenses

The bill increases the dependent care expenses upon which a taxpayer may apply the credit from $2,000 to $2,400 for families with one dependent receiving care, and from $4,000 to $4,800 for families with two or more dependents receiving care. Because inflation has increased the average expense for child care from that prevailing in 1976, when Congress established the current limits, this bill reflects the existing weekly average care facility fee of $50.

Section 5—Service outside taxpayer's household

Existing law enables taxpayers to take advantage of the tax credit for dependents 15 years of age or older if they are physically or mentally incapable of caring for themselves. Currently, families may utilize out-of-home care only for dependents under age 15. Therefore, under existing law, a handicapped dependent over age 15 must receive care in the home. The bill responds to the interest in encouraging families to care for elderly and handicapped dependents without institutionalization by permitting qualified dependents 15 years of age or older to receive care outside the home. For care provided in a child care center, the center must comply with all state and local laws and regulations in order for a taxpayer to utilize the credit.

Section 6—Coverage for parent with low income

The dependent care expenses which a taxpayer may consider for credit computation cannot exceed the income of the spouse who earns the least. Thus, under current law, a parent who engages in substantial full-time employment or farming, but because of the nature of his or her job earns little or no income, cannot take full advantage of the dependent care credit. This bill treats parents engaged in substantially full-time employment, but who receive little or no income, as if they had earned income for the purpose of computing the dependent care credit.

Section 7—Tax exempt status

The bill eliminates the requirement that a non-profit day care facility provide some educational purpose to qualify for tax exempt status. This change will permit non-profit facilities to more readily solicit charitable contributions.

Section 8—Exclusion from income

The bill excludes the value of dependent care provided by employers from the gross income of the employee. Although the IRS does not currently litigate this issue because of a temporary congressional ban on IRS activity to expand the concept of in-kind compensation, under general tax theory employees should include in their gross income the value of dependent care services provided by employers.

Section 9—Employer credit

To encourage the expansion of on-premise facilities and the provision of quality care services, this bill provides a credit for all non-capital expenses incurred by an employer in providing care to the dependents of its employees. The employer could not generate a profit from these activities in order to receive a credit. This credit treats the non-profit on-premise facility similar to community non-profit operations, without requiring employers to create a separate entity to operate their facilities. This credit also enables small businesses to contract with community facilities for the care of their employees' dependents.

Section 10—Rapid amortization for child-care facilities

To encourage the expansion of on-premise facilities, the bill provides incentives for employers to make capital investments in dependent care. The bill reduces the current special 5-year depreciation period for these capital costs to a 3-year period. The existing 5-year provision expires at the end of this year. By electing to apply the existing depreciation provision, an employer loses the opportunity to take first year depreciation and an investment tax credit which the code provides for other capital expenditures. The bill eliminates this discrimination against child care facilities depreciated in this rapid manner. The bill also reduces the requirement that 80 percent of the children cared for by a facility depreciated in the rapid manner must be children of employees; the bill requires that only a majority of the children be those of the employees. Any fees charged by an on-premise facility cannot exceed reasonable operating expenses to qualify for accelerated depreciation.

B. ADOPTION EXPENSE AMENDMENTS

Section 1—Exclusion from income of employees

Under Current Law, the value of adoption benefits provided by employers must be included in computing the income of an employee. This bill permits an employee to exclude from his or her income the value of any adoption benefit. This exclusion from income parallels the treatment of employer-provided medical insurance which covers the cost of pregnancy related expenses.

Section 2—Deductions for adoption expenses

Under current law, expenses related to an adoption such as legal bills, adoption fees, and medical expenses of the natural mother are not deductible. This bill enables a taxpayer to deduct the reasonable and necessary expenses which are directly related to the adoption of a child. This provision will encourage the adoption of foster children and reduce the economic barriers to adoption for prospective parents. The adoption must be arranged by a public agency or a state authorized or licensed not-for-profit voluntary adoption agency. The stipulation on the placement agency is intended to protect the welfare of the child by assuring that placements are not made by totally unqualified organizations.

Section 3—Employer contributions deductible

This bill treats expenses incurred by an employer in providing adoption benefits to its employees as ordinary and necessary business expenses, and thus deductible as a trade or business expense. Under current law, an employer can take a deduction only by including the value of the benefit in the wages of the employee. This section treats adoption benefits as a true fringe benefit rather than as a form of wages for tax purposes.

C. FOSTER CARE AMENDMENTS

Under current law, a taxpayer may take a dependent deduction only if he or she provides over half the support to a child during the taxable year. However, taxpayers who provide support as foster parents to many children throughout the year, each for a short period of time, usually cannot qualify for a dependent deduction because they do not provide over half for a single child during the year.

This bill amends the definition of "dependent" by permitting a taxpayer to be treated as having one dependent if the taxpayer has a foster child in the home for at least 270 days during the taxable year, regardless as to whether or not it is the same child, and provides over half the support for each child used in computing the period. This bill would thus enable taxpayers acting as foster parents for a substantial period during the year to qualify for a dependent exemption and to take advantage of deductions for medical expenses incurred for the care of foster children. This change in the definition of dependent injects greater equity into the tax code by treating all taxpayers similarly, regardless of whether the support they provide is for their own or foster children.

D. SOCIAL SECURITY AMENDMENTS

Section 1—Divorced husband benefits

Section 1 would equalize the treatment of divorced spouses. Under current law, a divorced woman qualifies for benefits on a former husband's wage record when she reaches age 62, at 60 if her former husband is deceased, or at age 50 if she is a disabled widow. A divorced man, however, qualifies for benefits on a former wife's wage record when he reaches age 62 and his former wife is still living. This provision would make the eligibility criteria for men the same as those now existing for women.

A report issued by HHS estimates that this change would affect about 500 men and cost about $1 million in additional benefits in each of the first five years. The long-range program and administrative costs would be negligible.

Section 2—Father's insurance benefits

This provision, which equalizes the treatment of spouses caring for young children, has the broadest impact of any of the provisions. Currently, a mother caring for young children receives benefits for herself and children if her husband (or former husband) is deceased or receiving disability or retirement benefits. A father receives benefits only if his wife (or former wife) is deceased. Section 2 extends benefits to fathers caring for young children if his wife (or former wife) is disabled or retired.

HHS estimates that 2,000 men would become newly eligible for benefits based on earnings of their retired, deceased, or disabled wives. These additional benefits would average between $3 and $4 million a year for the first five years.

Section 3—Remarriage of surviving spouse before age sixty

A widow under existing law qualifies for benefits based on a deceased first husband's earnings if she has remarried before age 60 and is divorced or widowed from her second husband when she applies for benefits. A widower, however, cannot receive such benefits based on a first wife's earnings if he has remarried before age 60, even though the later marriage has terminated. This section enables widowers to qualify for survivor benefits on the same basis as widows.

This provision affects very few widowers since most are insured on the basis of their own earnings.

Section 4—Credit for certain military service

Currently a widow can waive a payment of a civil service survivor's annuity based on whole or in part on credit for military service performed prior to 1957. A widow can apply these credits to qualify for, or raise, her social security widow's benefit. A widower, however, cannot waive payment of such an annuity in order to credit his earnings record. This provision puts no financial demand on the social security trust funds as military service credits are provided out of general revenues.

Section 5—Transitional insured status

Some individuals had no opportunity to qualify for social security retirement benefits because of their age when the program began (eg. those born in 1898 or before). In order to assure some retirement income to those people, Congress enacted a special monthly payment provision for persons in this age category. Currently, wives and widows of men qualifying under this provision receive a benefit based on the husband's record; no benefits are provided to husbands and widowers of women eligible for the benefit. This section eliminates this distinction, enabling men to qualify for the benefit.

Today, very few persons qualify for this benefit and only a few additional persons would receive funds under this change. In time, this provision is made ineffective as persons born prior to 1891 become deceased.

Section 6—Equalization of special age 72 benefits

Under current law, individuals attaining 72 before 1968 qualify for a special transitional benefit. An entitled individual receives a monthly benefit of $117. However, when a husband and wife each qualify on their own merits, the husband receives $117 while the wife receives $58.50 (one-half the benefit she would receive if she were single). This section equalizes benefits by providing for full payment of $117 to each qualified individual regardless of marriage status or sex.

Equalizing benefits costs approximately one-half million dollars, with the cost declining to zero as qualifying individuals become deceased. In addition, this change does not place an additional burden on trust fund moneys since general revenues provide 98 percent of its funding.

Section 7—Illegitimate children

Current law applies the interstate inheritance statute of the applicant's residence in determining whether the applicant qualifies as a child of the insured. In those states in which an illegitimate child cannot inherit from the estate of his parent, the law establishes the relationship of parent and child. There are two means of establishing paternity which cannot be used to establish maternity. This provision eliminates the differing standards of evidence, permitting methods used to establish paternity to also establish maternity.

Section 8—Self employment income

In some states, the entire amount of self-employment income of a couple is considered, for social security purposes, to be the husband's income. In other states, all of the income is credited to whichever spouse is more active in the business.

This section of this bill offers couples engaged in self-employment two options. First, they may split their income equally among themselves. Second, the spouse who exercises the greatest management and control can have the full amount credit to his or her account, This section provides equal credit for equal work and enables women to become covered for disability and retirement on the same basis as men.

Section 9—Childhood disability benefits

Existing law discourages people who were disabled as children from marrying and returning to work. Because their disabilities occurred before they reached working age, these early disabled individuals receive benefits based on a parent's wage record.

Currently, if two such disabled persons marry and the husband's health improves, the disabled wife loses her benefits. However, if the wife's health improves, the husband's benefits continue. This section in the proposed bill eliminates the bias against the importance of wives' earnings.

Mrs. HAWKINS. Mr. President, I rise to join the distinguished Senator from Ohio (Mr. METZENBAUM) in introducing legislation entitled the Dependent Care Amendments Act of 1981. We propose to amend the Internal Revenue Code to assist workingwomen in obtaining reliable quality child care.

By 1978, more than half of 16.1 million mothers with children under the age of 18 were in the labor force. Of these working mothers, 5.8 million had children under the age of 6. By 1990, two-thirds of all mothers with children under age 6 will be in the work force, and three-fourths of all two-parent families will have both parents in the work force.

This tremendous increase in the numbers of workingwomen has obviously led to the expansion of Government spending and support for child care services, with aid being focused on lower income Americans. In 1978, the Federal Government spent over $2.5 billion on child care. About 90 percent, or $1.8 billion, was in the form of direct Federal support through six Federal programs: First, title XX; second, Head Start; third, child care food program; fourth, title I; fifth, AFDC work expense allowance; and sixth, work incentive program. All of these Federal programs target their child care services to low-income Americans. Only the remaining 10 percent in indirect Federal subsidies, through the dependent care tax credit and the amortization of child care facilities, assist middle class working mothers.

While this Federal outlay is large, it is only 25 percent of the estimated U.S. expenditures for child care. The brunt of the financial burden of child care continues to be borne by the families of working mothers. Many of these mothers are working not for their own career advancement, but out of economic necessity. Increasingly, these women are middle class citizens trying to make ends meet.

Yet in the existing economic climate, women in the middle class, suffering under an ever-increasing burden of inflation, are discouraged from entering the workforce and increasing our Nation's productivity, because of the cost of child care. The legislation we are offering today would ease this financial burden by increasing the dependent care credit by providing for rapid amortization of child care facilities over 3 years instead of 5. Our bill seeks to aid working mothers with minor children who are forced to work outside the home. Since the Federal Government funding for child care primarily serves low-income families, there is a growing need to assist middle class mothers who are entering the workforce out of economic necessity.

With two important differences, this legislation is identical to H.R. 1894, introduced in the House of Representatives by Representative BARBER CONABLE, the ranking Republican on the House Ways and Means Committee. Our bill would add a provision excluding the value of qualified household and dependent care services from the definition of income for tax purposes. Under current law, employer contributions to child care services for employees are treated by the IRS in different ways depending on the circumstances of the contribution.

In some cases, the IRS may consider child care services as income to employees, rather than as a general benefit to attract employees and therefore not income. This provision will end the confusion over the taxability of child care services and benefit the women who are working out of economic necessity and cannot afford to be taxed for these services.

The second change from the Conable bill is a provision that amends section 188(a) of the Internal Revenue Code to allow rapid amortization of child care facilities over a 3-year period instead of the current 5-year period. This amendment seeks to encourage industries to establish onsite child care facilities for their employees. Industries that have established child care services for their employees have found that the child care centers resulted in lower job turnover, lower absenteeism and tardiness, improved employee morale and improved recruitment of new employees.

Despite these benefits, there are currently only 15 child care centers sponsored by industries in the United States. The current 60-month amortization of child care facility expenses has not proven to be as advantageous to some employers as the usual tax incentives, so we are shortening the time period for amortization in an attempt to encourage the establishment of child care centers by industry.

There are those who will argue that this proposal runs counter to the urgent need for Government austerity manifested in the Reagan budget proposals. That argument misunderstands the nature of the economy and the tax system. It is part of the argument that holds that all income is by rights the property of the Government, except for that portion that the Government deigns to permit the worker to keep. In other words, this legislation creates a tax expenditure.

This argument further holds that we can balance the budget by increasing taxes, something we have been trying to do for years, with remarkably little success. I would argue exactly the opposite: It is only by reducing tax burdens that

we will generate the economic activity which will permit us to balance the budget.

In this case, Mr. President, we would, in effect, extend the investment tax credit to individual workers. For the woman with small children in the home, an investment is required before she can become economically productive. The investment must take the form of some kind of payment for child care facilities. This legislation would improve the applicability of that investment tax credit to individuals, and to the industries, and to the industries which will be building the facilities for their workers.

Mr. President, this legislation is needed, desirable, productivity enhancing, and a matter of equity. I urge Senators interested in these concepts to work with me in enacting this and similar legislation targeted to the problems of working mothers.

Mr. METZENBAUM. Mr. President, I commend the distinguished Senator from Florida for a very able and incisive statement on this subject. I know that she has had a good deal of experience and background along this line in private life, and we are pleased to have her support, assistance, and cooperation in connection with the proposed legislation.

● Mr. TSONGAS. Mr. President, today I am pleased to join Senator METZENBAUM in introducing three bills that support American families. They will improve our networks of day care, foster care, and adoption without any increase in Federal spending.

This legislation deals with realities faced by American families:

Single-parent households are increasing. Families with two wage earners are increasing. Yet day care facilities are far too limited. The cost of quality day care is skyrocketing.

All children deserve families that care for them. Yet some children remain in institutions because potential parents cannot afford to care for them.

We must devise cost-effective policies that face these realities.

DAY CARE

More and more women are joining the work force, motivated by a mix of economic survival and personal fulfillment. More than 6 million children of preschool age have mothers who work, yet only 2 percent of the kids are in day care centers. For some women, day care can mean the difference between self-support and welfare.

The Dependent Care Amendments Act of 1981 increases the current child care tax credit based on ability to pay. This is vital to low-income families who are losing benefits as the Federal budget is cut. In addition, the bill raises incentives for industry to provide day care. It also fills in gaps in the tax credit structure for older handicapped children and adults who are cared for outside of the home.

I believe that Federal incentives for day care are cost-effective because they increase employment and tax revenues. The help out families and help our economy as well.

FOSTER CARE AND ADOPTION

The foster care amendment also would strengthen the American family. It improves the chances for a child to find a solid, supportive family rather than enduring a childhood of revolving door. It emphasizes the temporary nature of foster care while recognizing this troubling time in a child's life.

The fact is that the financial burdens of foster care are far greater than foster care stipends. Most foster families spend a great deal more than is allotted. Families that would give foster children the love and support they need may be unable to offer it, or to stay with it over time.

This bill attacks the shortage of quality foster homes by letting families claim as dependents any foster children in their home for at least 260 days. It is a sensible, overdue initiative to help children grow up in a stable, family unit.

The adoption amendment provides some tax relief for adoption expenses. The cost of adoptions continue to rise. In an era when the Congress has cut spending in many family assistance programs we must provide a different kind of assistance to families who would like to open their homes to children through adoption. The bill not only addresses the expenses incurred by the adoptive family, it makes adoption expenses paid by an employer tax exempt.

Mr. President, strong family units are vital to America's future. I know my colleagues are united in this belief, and I urge bipartisan support for these cost-effective efforts to make American families stronger.●

By Mr. HOLLINGS (for himself and Mr. WEICKER):

S. 1482. A bill to amend certain provisions of the act of May 27, 1970, to provide a procedure for determining whether a plan for the Federal Government to participate in an international exposition should include construction of a Federal pavilion, whether such Federal pavilion should be a permanent structure, and for other purposes; to the Committee on Foreign Relations.

CONSTRUCTION OF PAVILIONS FOR INTERNATIONAL EXPOSITIONS

● Mr. HOLLINGS. Mr. President, last year, as chairman of the Subcommittee on State, Justice, Commerce Appropriations, I asked the General Accounting Office to look into the financial management of the Knoxville International Energy Exposition, or "Expo '82" which is now known as the 1982 World's Fair. I was prompted to request this investigation because of allegations concerning the way contracts were being awarded that involved Federal funds.

On March 20, 1981, the GAO submitted their report which indicated that sufficient controls have been established to prevent exorbitant profits from being realized by the developers and contractors in connection with the World's Fair. However, the GAO also made a series of recommendations to the Congress that will avoid unnecessary expenditures and maximize residual use of U.S. pavilions constructed as part of such expositions in the future. I rise today to introduce legislation to carryout those recommendations and urge that it be promptly enacted. I am pleased that Senator WEICKER, who now chairs the State-Justice Subcommittee, is joining me in submitting these critically needed reforms.

As the Senators will recall, I opposed the Federal participation in "Expo '82." While the recent resuscitation efforts by the new administration will apparently insure a viable program in Knoxville next year, the events over the last 2 years are a case study of what is wrong with the current law governing U.S. participation in international expositions.

When we first got into this project it was evident that a key purpose of the fair was to redevelop a railroad yard adjacent to Knoxville's downtown business district as a site for new office buildings, hotels, and civic buildings. The involvement of one prominent Tennessee banker was particularly evident to the point that Federal participation would not have been authorized except for his associations with the Carter administration. Senator WEICKER and I were both concerned that this fair had no real purpose, inasmuch as it was called an international energy exposition, an area that America has precious little to exhibit.

Even if there was a better theme, it is disturbing that these international expositions were becoming scantily disguised efforts to develop rundown areas with massive infusions of Federal funds under the name of a world's fair. In this particular case, GAO has established that the total Federal investment is now more than $44 million of which $21 million is associated with the Federal pavilion, and the remaining $23 million composed of an assortment of grants from the Departments of Housing and Urban Development, Commerce, Energy, Interior, as well as the Appalachian Regional Commission for various improvements and construction of buildings at the fair site.

The total funding of the fair is $177 million, and the remaining $133 million consists of less than $15 million in developers' equity and survey funds. The bulk of the non-Federal funds is city and industrial bonds, as well as $45 million in loans by national and Knoxville banks.

Mr. President, not only was "Expo '82" premised on the wrong theme and shakey financing, but no clear afteruse of the $12,300,000 Federal pavilion has been established. As the GAO report clearly shows, there was little cooperation between the Department of Commerce and the General Services Administration in the development of this project. GSA had determined that the Federal Government had a definite need for 100,000 square feet of office space in Knoxville, but due to lack of cooperation from Commerce—which apparently was hellbent on giving the building to the University of Tennessee—gave up in trying to get the pavilion designed for Federal afteruse.

GSA decided to convert the post office and courthouse building in Knoxville, and in addition adapt several historic buildings in downtown Knoxville to

satisfy its space requirements. Within the last few weeks we have learned that the University of Tennessee does not plan to take the building which the Department of Energy has said is not even energy efficient in itself.

Since 1962 there have been five World's Fairs, of which three have been held in the United States, excluding the Hemis Fair at San Antonio in 1968 which apparently was not designated as a World's Fair even though our involvement amounted to $6,800,000.

As the Senators will recall, the Federal Government wound up paying $530,000 to demolish the $10,400,000 Federal building constructed for the 1964 New York World's Fair when no one would take it off of the Government's hands. Hopefully, we will not have to repeat that tragic event in Knoxville, but it is imperative that before we become involved in another World's Fair, we must strengthen the laws governing our participation to insure that a permanent facility is absolutely required and that the residual use of the facility is clearly documented.

Mr. President, we are going to be into another World's Fair quicker than you might expect, for on April 17, 1981, President Reagan authorized the U.S. participation in the 1984 Louisiana World Exposition in New Orleans. The Federal participation in this World's Fair is to be limited to $10,000,000. However, the current estimates for the Federal pavilion range from $20,000,000 to $40,000,000. We certainly should be skeptical of holding the U.S. participation to $10,000,000.

Before we become involved in another World's Fair just 2 years after Knoxville, I believe that the Congress should review and develop a more comprehensive policy than now governs our participation in such events. I am informed that under current rules and regulations the United States can host a World's Fair every 2 years if it so desires. There are those who believe that frequently holding such events in the United States can be an important part of the Government's trade promotion activities. Congress may eventually share that judgment, but at the moment Congress has not been involved in any such decision.

The Secretary of Commerce will soon be transmitting the legislation authorizing U.S. participation at the 1984 Louisiana World Exposition, and I call on the Committee on Foreign Relations to use that opportunity to carefully develop a rational policy for Federal participation in such events. In that regard I call to the attention of the Senate on an article entitled "Are Fairs Obsolete?" that appeared in the New York Times of June 3, 1981. I shall ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

Mr. President, at the minimum I believe that the Congress should amend Public Law 91-269 which presently governs U.S. participation in international expositions along the lines recommended in the GAO report of March 20, 1981. Accordingly, we are submitting amendments similar to those proposed in that report providing for full documentation by the Secretary of Commerce, as well as the Administrator of the General Services Administration, that a permanent structure is required for the U.S. Pavilion. Furthermore, these amendments would insure that the residual needs of the Government are met in the design of the Pavilion, and that the appropriation for the construction of the building includes funds necessary to convert the Pavilion to the identified Federal need.

Mr. President, I wish to acknowledge the assistance of Jimmy Behling who interned in my office last month and was of great assistance in the preparation of this statement. I ask unanimous consent that the bill and the article referred to earlier be printed in the RECORD.

There being no objection, the bill and the article were ordered to be printed in the RECORD, as follows:

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803) is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2) and (3) respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

(4) by adding at the end thereof the following new subsections:

"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether the Federal Government needs a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the needs of the Federal Government for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator, determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) Upon authorization of the Congress approving the participation and the proposal submitted under subsection (a) of this section, there shall be authorized to be appropriated such sums as may be necessary—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal particiaption in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

ARE FAIRS OBSOLETE?

(By Howard P. Segal)

ANN ARBOR, MICH.—Is it time to end world's fairs?

Scholars of fairs, gathered at a symposium last fall at the Queens Museum, in Flushing Meadows, N.Y., commemorating the 1939–40 New York World's Fair, agreed that "The World of Tomorrow"—the theme of that fair—was the boldest in a succession of world's fairs dating back to London's Crystal Palace Exhibition of 1851.

Although other international expositions from 1851 onward displayed no-less-impressive exhibits than New York's did, the 1939–40 fair alone announced the prospect of creating a veritable utopia in the very near future—by 1960, to be exact. The most famous exhibit, the General Motors Futurama, designed by Norman Bel Geddes, showed "The World of Tomorrow" as almost within his and other planners' grasp. For them, as for scores of other utopian prophets beginning with Francis Bacon in the 17th century and continuing through, among others, Buckminster Fuller today, technology held the key to transforming utopia from the "impossible" to the "possible" and even the "probable."

Forty years later, those at the symposium reflected on the considerable gap between what had been predicted in 1939–40 and what had been achieved. As with so many other technological utopias—and not only fairs but model communities and visionary writings, too—the problem has been twofold: the inability to predict the "real" future technologically and non-technologically, and the inability to translate actual technological advances into equivalent social advances. Thus, Norman Bel Geddes, Henry Dreyfuss, Raymond Loewy, and Walter Dorwin Teague—the four major industrial designers of the New York fair—were excessively optimistic both in their shared chronology for the future and in their shared assumption that technology would solve nearly all future problems. By 1960, American society resembled Futurama and its peer exhibits only in bare outline—in its sleek skyscrapers and superhighways. Much remained to be filled in and obviously still does.

Of the numerous symposium participants, only one appeared confident that the future really could still be so fashioned and thus improved: the Knoxville Fair representative, who gave a lively talk on "From Out of History Comes Energy Expo '82—the Knoxville

World's Fair." Moreover, he exuberantly named all definite or possible sites for world's fairs between 1981 and 2001.

Among planners of coming fairs there seems little concern for the future of fairs as social and cultural artifacts. Apart from the always sensitive question of finances, isn't there a no-less-weighty question of the utility of world's fairs as conveyors both of ideals and of technical information? Just as postage stamp, peace ships, and peace congresses no longer are viewed as efficient means of achieving international harmony, perhaps world's fairs ought not to be so viewed. Simply bringing together masses of people into one geographical space is hardly a serious route to that admirable goal. Other means to world peace more suitable to the late 20th century should be sought.

Technology comes readily to mind, whether a military deterrent or in more positive forms. Yet it is the advance of technology since 1939–40 that has probably rendered fairs obsolete. The revolution in electronics and information processing, barely envisioned in 1939–40, has made possible instantaneous visual communication throughout most of the globe and has drastically reduced the amount of time elapsing between generations of computers and other machines. Hence, the other principal purpose of international expositions—bringing technological advances to the attention of the largest number of people in the most effective way—has likewise been severely undermined.

This is not to say that the mundane international trade fairs, as distinct from world's fairs, that predated even the Crystal Palace Exhibition, and that persist today, are necessarily obsolete. Nor are the amusement parks that accompanied world's fairs. But they have no serious social and cultural pretensions. Rather, it is to say that the international extravaganzas exemplified by the 1939–40 fair may, like its streamlined style, no longer be appropriate to contemporary society.

Those who, like the Knoxville Fair representative, claim that history is fundamentally continuous, and that forms of social, cultural, and technological expression should therefore be continuous as well, ought to reconsider these assumption. World's fairs have not always been with us, and need not be, particularly if they no longer serve their intended purposes. The same technological progress that inspired so many fair deisgners and patrons may have ultimately rendered the object of their affections irrelevant to the future.●

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. PACKWOOD, the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 561

At the request of Mr. CRANSTON, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 561, a bill to extend the authorization of the appropriations for programs under the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and for other purposes.

S. 569

At the request of Mr. JEPSEN, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 584

At the request of Mr. HATCH, the Senator from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. SCHMITT), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 584, a bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983), relating to civil actions for the deprivation of rights, to limit the applicability of that statute to laws relating to equal rights.

S. 585

At the request of Mr. HATCH, the Senator from New Mexico (Mr. SCHMITT), the Senator from North Carolina (Mr. HELMS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 585, a bill to provide a special defense to the liability of political subdivisions of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights.

S. 756

At the request of Mr. HOLLINGS, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 756, a bill to amend Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes.

S. 791

At the request of Mr. MITCHELL, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 791, a bill to amend the Internal Revenue Code of 1954 to exclude certain service performed on fishing boats from coverage for purposes of unemployment compensation.

S. 881

At the request of Mr. RUDMAN, the Senator from Texas (Mr. BENTSEN), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Utah (Mr. GARN), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. RIEGLE), the Senator from New Jersey (Mr. BRADLEY), the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oregon Mr. HATFIELD), the Senator from Virginia (Mr. WARNER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New York (Mr. MOYNIHAN), the Senator from New York (Mr. D'AMATO), the Senator from Missouri (Mr. DANFORTH), the Senator from Illinois (Mr. PERCY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Rhode Island (Mr. PELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Oklahoma (Mr. BOREN), the Senator from Vermont (Mr. LEAHY), the Senator from Florida (Mrs. HAWKINS), the Senator from Maryland (Mr. SARBANES), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. BURDICK), the Senator from Arkansas (Mr. PRYOR), the Senator from Wyoming (Mr. SIMPSON), the Senator from South Dakota (Mr. ABDNOR), the Senator from Ohio (Mr. METZENBAUM), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KASTEN), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. STAFFORD), the Senator from Illinois (Mr. DIXON), the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Delaware (Mr. ROTH), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from Montana (Mr. MELCHER), the Senator from Nevada (Mr. CANNON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maine (Mr. COHEN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Tennessee (Mr. SASSER), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Iowa (Mr. JEPSEN), the Senator from Nebraska (Mr. EXON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alabama (Mr. HEFLIN), the Senator from Maine (Mr. MITCHELL), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. ANDREWS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from North Carolina (Mr. EAST), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. DENTON), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Michigan (Mr. LEVIN), the Senator from North Carolina (Mr. HELMS), the Senator from Wyoming (Mr. WALLOP), the Senator from Washington (Mr. GORTON), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 881, a bill to amend the Small Business Act to strengthen the role of the small innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

S. 888

At the request of Mr. DURENBERGER, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 900

At the request of Mr. HEINZ, the Senator from Louisiana (Mr. LONG), the Senator from Arizona (Mr. DECONCINI), and the Senator from South Carolina

(Mr. THURMOND) were added as cosponsors of S. 900, a bill to assure that job skills training, and employment opportunities are furnished through Opportunities Industrialized Centers and other community based organizations of demonstrated effectiveness in certain block grant programs involving the creation of urban jobs in enterprise zones, and for other purposes.

S. 1086

At the request of Mr. DENTON, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1086, a bill to extend and revise the Older Americans Act of 1965, and for other purposes.

S. 1166

At the request of Mr. WEICKER, the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1166, a bill to provide weatherization assistance to States in the form of energy grants.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1230

At the request of Mr. CRANSTON, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1230, a bill to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.

S. 1236

At the request of Mr. HEINZ, the Senator from Pennsylvania (Mr. SPECTER), the Senator from Florida (Mr. CHILES), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 1236, a bill to amend sections 5701(a)(2) and 5702(m) of the Internal Revenue Code of 1954 to modify the base on which the tax on large cigars is imposed and to achieve a phased reduction in the tax rate.

S. 1347

At the request of Mr. HEINZ, the Senator from Idaho (Mr. SYMMS), the Senator from New York (Mr. D'AMATO), the Senator from Vermont (Mr. STAFFORD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. MATHIAS), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Arizona (Mr. DECONCINI), and the Senator from Hawaii (Mr. MATSUNAGA), were added as cosponsors of S. 1347, a bill to amend the Internal Revenue Code of 1954 to extend for 1 year the credit against tax for employment of members of targeted groups.

S. 1348

At the request of Mr. SASSER, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1348, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

S. 1394

At the request of Mr. DECONCINI, the Senator from Oklahoma (Mr. NICKLES), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 1394, a bill to improve the ability of the Secret Service to protect the President and other designated protectees.

S. 1448

At the request of Mr. MATHIAS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1448, a bill to provide for the issuance of a postage stamp to commemorate the seventieth anniversary of the founding of the Girl Scouts of the United States of America.

S. 1459

At the request of Mr. SCHMITT, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1954 to increase the amount of the partial exclusion of dividends and interests and to make such exclusion permanent.

S. 1462

At the request of Mr. DECONCINI, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1462, a bill to establish the Arid Lands Renewable Resources Corporation.

SENATE JOINT RESOLUTION 10

At the request of Mr. HUDDLESTON, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of Senate Joint Resolution 10, a joint resolution to establish a Commission on Presidential Nominations.

SENATE JOINT RESOLUTION 42

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. COCHRAN), the Senator from Nevada (Mr. LAXALT), the Senator from North Carolina (Mr. HELMS), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. GRASSLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from New York (Mr. MOYNIHAN), the Senator from North Dakota (Mr. BURDICK), the Senator from Alabama (Mr. HEFLIN), the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. BUMPERS), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of Senate Joint Resolution 42, a joint resolution designating the third Sunday in September as "National Ministers Day."

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. GLENN, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution submitting a proposal to Improve the International Nonproliferation Regime.

SENATE RESOLUTION 87

At the request of Mr. HEINZ, the Senator from Florida (Mrs. HAWKINS), the Senator from Connecticut (Mr. WEICKER), the Senator from Virginia (Mr. WARNER), the Senator from South Carolina (Mr. THURMOND), the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 87, a resolution expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits, and for other purposes.

SENATE RESOLUTION 167

At the request of Mr. DOLE, the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Resolution 167, a resolution to commend the disabled individuals who climbed Mount Ranier, Wash., during the summer of 1981.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION

Mr. HUMPHREY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Energy Regulation regarding the Federal Energy Regulatory Commission licensing procedures affecting hydroelectric development in New England. This oversight hearing will be held on Friday, August 7, beginning at 10 a.m. at the Franklin Pierce Energy Institute in Concord, N.H.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Energy Regulation, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Howard Useem of the subcommittee staff at 224-5205.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Water and Power regarding the potential for hydroelectric development in Alaska and related regulatory factors. This oversight hearing will be held on Monday, August 17, beginning at 9 a.m. in the Anchorage Federal Office Building in Anchorage, Alaska.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Com-

mittee on Energy and Natural Resources, Subcommittee on Water and Power, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Russ Brown of the subcommittee staff at 224–2366.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY AND SUBCOMMITTEE ON SECURITIES

Mr. GARN. Mr. President, the Subcommittee on International Finance and Monetary Policy and the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs will hold a joint hearing on S. 708 on July 23, 1981. The hearing will be held in room 5302 of the Dirksen Senate Office Building, beginning at 2 p.m.

S. 708, the "Business Accounting and Foreign Trade Simplification Act," has been the subject of three previous hearings of the two subcommittees.

For further information about the hearing, interested persons should contact Paul Freedenberg or John Daniels of the Banking Committee staff at 224–7391.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee has scheduled 2 days of oversight hearings on the commerce clause and the severance tax. The hearings will be conducted at 9 a.m. on July 15 and July 16 in room 3302, Dirksen Senate Office Building.

Those wishing to submit written statements to be included in the printed record of the hearings should send five copies to Ruth M. Doerflein, clerk, Subcommittee on Intergovernmental Relations, room 507, Carroll Arms Building, Washington, D.C. 20510.

For further information on the hearings, you may contact Larry Hunter of the subcommittee staff on 224–6716.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Budget Committee business meeting scheduled for Wednesday, July 15, 1981 at 2 p.m. in room 6202 has been canceled.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider S. 1475, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act. The hearing is scheduled for Monday, July 20, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. David Doane of the committee staff at 224–7144.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today at 3:30 to continue their markup of water pollution amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to vote on the following nominations:

Richard D. Erb to be Executive Director International Monetary Fund (IMF).

Edward L. Rowny to be Special Representative for Arms Control and Disarmament with rank of Ambassador.

William L. Swing to be Ambassador to Republic of Liberia.

Parker W. Borg to be Ambassador to Republic of Mali.

Julius W. Walker to be Ambassador to Upper Volta.

Vernon A. Walters to be Ambassador at Large.

H. Monroe Browne to be Ambassador to New Zealand.

Richard L. Walker to be Ambassador to South Korea.

And to hear brief testimony and vote on the following treaties:

Treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges(97–13).

International Convention Against the Taking of Hostages (Ex. N, 96–2).

Convention on the Physical Protection of Nuclear Material (Ex. H, 96–2).

The 1979 amendments to the Inter-Governmental Maritime Consultative Organization (IMCO) Convention (Ex. K. 96–2).

Revised Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1975 TIR Convention) (Ex. M, 95–1).

Treaty with the Republic of Colombia concerning the Status of Quita Sueno, Roncador, and Serrana (Ex. A, 93–1).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 15, to hold hearings on S. 1166, the National Home Weatherization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 16, to hold hearings on the issue of preventive medicine and health promotion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, July 17, to hold confirmation hearings on the nomination of the following:

Donald Senese to be Assistant Secretary for Education Research;

Daniel Oliver to be General Counsel, Department of Education;

Thomas Melady to be Assistant Secretary for Postsecondary Education;

Anne Graham to be Assistant Secretary for Legislation and Public Affairs, Department of Education;

George Conn to be Commissioner, Rehabilitation Services Administration;

Thomas Lias to be Assistant Director, ACTION;

William Mayer to be Administrator, Alcohol, Drug Abuse, and Mental Health Administration; and

Robert Rowland to be a member of the Occupational Safety and Health Review Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SPIRITUAL FOUNDATION OF AMERICA

● Mr. CANNON. Mr. President, on July 5, 1981, as a fitting conclusion to ceremonies celebrating our Nation's 205th birthday, President Ezra Taft Benson, president of the council of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, gave a fireside address in Las Vegas, Nev.; reminding us of the great importance of the spiritual foundation on which this great Nation of ours is based. That address carried an uplifting message, and I ask that the text of the message be printed in full in the RECORD.

The address follows:

SPIRITUAL FOUNDATION OF AMERICA

Brothers and Sisters: I use this salutation to include all assembled, for we are all children of one Eternal Father in the Spirit—brothers and sisters all.

It is an honor and a privilege for me to stand before you this evening. I do so gratefully and humbly; grateful for the opportunity to be in your presence, and humbled by the responsibility to say something that may be uplifting and of value to you.

This evening, I speak about the spiritual foundation of America.

I choose to speak on this subject because of my firm conviction that, unless we get our spiritual house in order, what we do in an economic or any other sense will not matter much.

Our nation had a spiritual beginning.

That must never be forgotten or doubted. Lest we forget, let us review some of our most cherished documents which declare the canons of our faith—

This nation began with the founding of Plymouth Colony in 1620. You are all familiar with the pilgrimage which brought the Puritans to this land.

They had come to these shores under financial sponsorship of the Virginia Company of London and of Plymouth, England. Their intent was to settle in the Virginia Colony.

but they landed far to the north where the king of England had no authority.

Since England had no government for them, they decided to form a government of their own!

Assembled in the cabin of the Mayflower, 41 of 43 adult males formed a compact as the source of their authority.

That compact was drafted in "the name of God." Their reasons for a government were also asserted: "for the glory of God" and "the advancement of the Christian faith." These are the twin pillars of our religious freedom in this nation!

One hundred and two pilgrims had left England for the Promised Land. Fifty-one, just half the colony, survived the first winter. Not one of the survivors returned to England.

They made a commonwealth on the principle of religious liberty—faith in an Omnipotent God.

Ay, call it holy ground
The soil where they first trod,
They have left unstained what they found—
Freedom to worship God.

Hardly had the new nation had its beginning than oppression came from the mother country.

Injustice, oppressive taxation, the despised navigation acts—led the colonists to deliberate on their rights and liberties under the crown.

A petition to the king failed—

Then the shot heard 'round the world was fired at Lexington.

A year later, in the summer of 1776, the Continental Congress met in Philadelphia and declared independence from England.

The doctrine of that canon—The Declaration of Independence—is this: that the Creator (God) endowed all men with rights, and the governments derive their powers from the consent of the governed.

Until the American Revolution, a millennia of political tradition vested powers only in monarchs or dictators.

No government recognized that God was the source of man's rights.

The Founders reasoned that if rights are derived from government, in reality, there are no rights. There are merely government "favors," and those favors may be subject to recall and change at any time.

The framers of our Republic simply declared the truth—that God gave all men the right to life, liberty, and property.

Man, therefore, was master over government rather than the other way around.

That is what the American Revolution was all about—not just a separation from England, but a separation from the historical tradition that made one man another's chattel and denied all men liberty and property.

Some vacillated on whether to take such a bold step as separation from England. At this point, John Adams stepped forward and pled:

Sink or swim, live or die, survive or perish, I give my hand and my heart to this vote. It is true, indeed, that in the beginning we aimed not at independence. But there's a Divinity which shapes our ends. . . . Why, then, should we defer the Declaration?

. . . You and I, indeed, may rue it. We may not live to the time when this Declaration shall be made good. We may die; die colonists; die slaves; die, it may be, ignominiously and on the scaffold. Be it so, Be it so. If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready. . . . But while I do live, let me have a country, or at least the hope of a country, and that a free country.

But whatever may be our fate, be assured . . . that this Declaration will stand. It may cost treasure, and it may cost blood; but it wil stand, and it will richly compensate for both. Through the thick gloom of the present, I see the brightness of the future, as the sun in heaven. We shall make this a glorious, an immortal day. When we are in our graves, our children will honor it. They will celebrate it with thanksgiving, with festivity, with bonfires, and illuminations. On its annual return they will shed tears, copious, gushing tears, not of subjection and slavery, not of agony and distress, but of exultation, of gratitude, and of joy. Sir, before God, I believe the hour is come. My judgment approves this measure, and my whole heart is in it. All that I have, and all that I am, and all that I hope, in this life, I am now ready here to stake upon it; and I leave off as I begun, that live or die, survive or perish, I am for the Declaration. It is my living sentiment, and by the blessing of God it shall be my dying sentiment, Independence, now, and Independence for ever. (*The Works of Daniel Webster*, 4th ed., 1851, 1:133–36.)

Fifty-six men stepped forward and signed the declaration.

From the standpoint of numbers, equipment, training, and resources, the rag-tag army of the colonists should never have won the war for independence.

But America's destiny was not to be determined by overwhelming numbers, or better military weapons or strategy. As Adams declared: "There's a Divinity which shapes our ends."

When the war was over, here is how Washington ascribed the victory:

"The success, which has hitherto attended our united efforts, we owe to the gracious interposition of Heaven, and to that interposition let us gratefully ascribe the praise of victory, and the blessings of peace." (To the Executive of New Hampshire, November 3, 1789.)

The newly formed nation, however, was hardly a united commonwealth. At best it could be described as a federation of colonies loosely held together by the Articles of Confederation.

Under this instrument, the nation had no head—no president, and no supreme court—only a congress devoid of any power.

In addition, rebellions and potential anarchy threatened the victory won by war.

Providentially, a Constitutional convention was called in 1787.

The delegates met from May 25th to September 17th with George Washington presiding.

A central issue was whether they were to merely revise the Articles of Confederation or write a new constitution.

Debates were earnest and at times it appeared that the convention was deadlocked. On one of those occasions, the elder statesman of the group, Benjamin Franklin, appealed to the delegates. He declared:

"I have lived, Sir, a long time; and the longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. And, if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the Sacred Writings, that "except the Lord build the house, they labor in vain that build it." I firmly believe this; and I also believe, that, without his concurring aid, we shall succeed in this political building no better than the builders of Babel; we shall be divided by our little, partial, local interests, our projects will be confounded, and we ourselves shall become a reproach and a by-word down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war, and conquest.

"I therefore beg leave to move,

"That henceforth prayers, imploring the assistance of Heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business; and that one or more of the clergy of this city be requested to officiate in that service." (Jared Sparks, *The Works of Benjamin Franklin*, 1837, pp. 155–56.)

The deadlock was broken.

Compromises were made.

A constitution was drafted.

And 39 of 55 delegates signed it.

Before the states ratified the document, ten amendments were added. We call them our Bill of Rights. More accurately, these amendments are limitations on the powers of the federal government.

The preamble to the document prescribes its purpose:

We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for a common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution of the United States of America.

In a Republic, the people are the government through chosen representatives.

This implies that the majority of people must be virtuous, principled, and moral so that they select only those to represent them who reflect those same standards.

This is why John Adams declared, "Our constitution was made only for a moral and religious people." (John R. Howe, Jr., The Changing Political Thought of John Adams, Princeton University Press, 1966, p. 185.)

Self rule implies self-restraint and self-discipline.

Our first years under the new Constitution were bound to be trying. Some felt too much power had been given to the executive; others not enough.

The times demanded an executive or strength—not one whose love for office or personal ambition would lead to excess and thereby fulfill some of the more dire predictions by the critics of the new Republic.

Providence had raised up such a man in the person of the Commander-in-Chief of the Revolutionary Army, President of the Constitutional Convention, and America's foremost citizen—George Washington.

As we look back on his eight-year administration, we see strength of character, leadership, and sensitivity to the powers of office that maintained a delicate moral balance so needed at this critical time.

Washington's use of power in office was exemplary for every successor to the executive position—although not all successors followed that example.

At the conclusion of his eight-year term of office, Washington felt to tell his countrymen that he would not seek a third term of office.

With a "solicitude for (the) welfare" of the governed, Washington prepared his Farewell Address—counsel which is as applicable today as when it was given.

I believe the wisdom contained in that address was as inspired as our other canons of government.

What did Washington counsel?

First, a unity among the people as the pillar "in the edifice of your real independence"—to avoid factionalism, sectional geographic jealousies, and party strife.

Government of the whole, he declared, is essential to the prosperity of liberty!

Second, to think and speak of the Constitution as the palladium of our political safety and prosperity. He urged citizens to resist the "spirit of encroachment" where departments of government tend to consolidate all powers into one. He called this tendency "a real despotism."

Third, he called for harmony, peace, justice, and good faith with all nations, but permanent alliances with none.

Fourth, he urged fiscal responsibility. This meant not to add to our public debt in times of peace, but to "discharge the debts which unavoidably wars may have occasioned, not

ungenerously throwing upon posterity the (burden) which we ourselves ought to bear." Such was his counsel to his countrymen.

He also declared:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports . . . let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure—reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

"'Tis substantially true, that virtue or morality is a necessary spring of popular government."

Our first great crisis as a nation was now over—that critical interval between the Revolutionary War and the ratification of the Constitution when there was no federal government.

The Civil War which threatened to dissolve the Union brought another major crisis to our young nation.

This time Abraham Lincoln was the man of the hour.

In the midst of that fratricidal struggle, Lincoln—a God-fearing man—rose to his finest hour and issued a Proclamation for a National Fast Day. His words are timeless:

"It is the duty of nations as well as men to own their dependence upon the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord:

"And, insomuch as we know that by His divine law nations, like individuals, are subjected to punishments and chastisements in this world, may we not justly fear that the awful calamity of civil war which now desolates the land may be but a punishment inflicted upon us for our presumptuous sins, to the needful end of our national reformation as a whole people?

"We have been the recipients of the choicest bounties of Heaven: we have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power, as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace and multiplied and enriched and strengthened us, and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us.

"It behooves us, then, to humble ourselves before the Offended Power, to confess our national sins, and to pray for clemency and forgiveness." (Abraham Lincoln)

These are five canons of our faith—

The Mayflower Compact;

The Declaration of Independence;

The Constitution of the United States of America;

Washington's Farewell Address; and

Lincoln's Proclamation for a National Day of Fasting and Prayer.

A contributing cause of our problems today is a general decline in spirituality and unrighteousness on the part of many of our people.

If we use the Decalogue—a standard used by the founders of our nation—how do we measure up?

The first and second commandments stipulate our worship and belief in God: "Thou shalt have no other gods before me: . . . Thou shalt not make unto thee any graven image."

As we have shown, worship and belief in God are the foundation of our society. We deliberately declare on our currency and coin—"In God We Trust."

We take oaths of office before God.

Our legal testimonies are based on an oath before God.

We pledge allegiance to our republic, that it is a nation "under God."

Yet can we deny that Americans generally disregard God in their daily pursuits and are seeking their own self-interests?

Lincoln chastised his countrymen for their faithlessness in 1863. What would he say today?

I think he would repeat: "In our prosperity, we have forgotten God!"

The third commandment states: "Thou shalt not take the name of the Lord thy God in vain." There seems to be a deliberate, concerted effort to punctuate dialogue on stage, screen, and in novels with blasphemy in addition to coarse, vulgar expressions. And is not the motive economic—to sell more tickets or books?

The fourth law pertains to setting aside one day in seven as a day of worship. Not only has the Sabbath become a work day, but it has become primarily a day of amusement and recreation: golfing, skiing, hunting, fishing, picnicking, racing, movies, and ballplaying.

Next, "Honor thy father and mother," which Jesus said meant to support them. Yet today untold thousands of young people have abandoned their parents to the care of others.

The sixth law states, "Thou shalt not kill." As a nation we deplore violence and murder, yet need we be reminded in what small esteem life is now held?

So blinded have some become that they cannot see the relationship between a nation legally sanctioning abortion and our declining spiritually, one measure of our lack of regard for human life.

"Thou shalt not commit adultery," and later, "Thou shalt not covet thy neighbor's wife." These laws are the basis for maintaining an undefiled home.

Never in our generation have morals been so loose as now.

Never has youth been so exposed to sex in its crudest, coarsest, and most debasing form. Sex is almost worshipped, and the curtain of modesty has been stripped away. "R-rated" and some "P-G" movies have become open invitations to youth and adults to vicariously violate the law of chastity. This permissiveness has no doubt encouraged the promiscuity that is so commonplace in almost every community.

The eighth law states: "Thou shalt not steal." When God gave this law, He recognized the fundamental right to property. Yet how much we pay for the violation of this law through increased costs of merchandise, higher insurance rates, and wasting human resources by incarceration in penal institutions.

"Thou shalt not bear false witness." When we speak of morality, we imply that a man is true to his word—true to his signature on a contract. The violations of God's laws already mentioned are evidence that lying and misrepresentation are not absent from us.

Our system of law and government depends on truthfulness!

Last, "Thou shalt not covet." This is a besetting sin of our times.

Covetousness, plus love of idleness, lies at the root of our violation of the law of work. Covetousness has reached every forbidden item in the other commandments: our neighbor's house, wife, employees, worldly goods—everything that is our neighbor's.

Covetousness brings with it greed, avarice, ambition, and love of power. Cheating, lying, misrepresentation are all used as justification to acquire a neighbor's legacy.

How can God bless America when America does not honor God's laws?

Are we not now reaping the whirlwind?

Disregarding these laws will inevitably lead this nation to ruin, just as it has other civilizations in history.

It is my faith that we are tenants on this blessed land, and will remain so only as we keep these fundamental commandments of God.

I remember a number of years ago when Cecil B. DeMille, the producer of the great film "The Ten Commandments," was invited to accept an honorary degree from Brigham Young University. In his address to the student body, Mr. DeMille said that men and nations cannot really break the Ten Commandments; they can only break themselves upon them.

How true that is!

If America is to survive as a free nation, we will have to return to the spiritual foundation that gave rise to our beginnings.

We have this promise from the great Lawgiver Himself:

If my people which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land. (2 Chronicles 7:14.)

That, ladies and gentlemen, is the prescription for most of our ills.

I know the power of prayer!

I saw its effect in one administration for eight years.

I was somewhat startled when President-elect Eisenhower called on me in our first cabinet meeting to offer prayer. I did so.

After that first meeting, I was disappointed when our next meeting was opened without prayer. After some considerable thought I sent President Eisenhower a note, an excerpt of which I quote here:

"May I make bold to suggest that each of our weekly Cabinet meetings be opened with a word of prayer, as you so appropriately started the first one. The suggestion is made only because of my love for you, members of the Cabinet, and the people of this great Christian nation. I know that without God's help we cannot succeed. With His help we cannot fail. Franklin said, 166 years ago when he made a similar suggestion, 'God governs in the affairs of men.'

"I feel sure there are several of us, who, if called on for a word of prayer, would willingly respond. Such a procedure is working with my own staff.

"If you feel the suggestion is not practical, then I will understand and will not trouble you further in the matter."

At our next meeting which was on February 6th, the President said simply, "If there is no objection, we'll begin our deliberations with prayer."

And that's how it was with the Eisenhower Cabinet from that time on.

Usually we raised our hearts to the Almighty in silence.

If ever there was a time when this nation needed the help of Almighty God, it is now.

When we have the inspiration of God—and desire to do His will—we will make the right decisions and the people will be prospered and kept free.

Yes, our nation's foundation is spiritual.

Without spirituality, we are no better than any of the other nations which have sunk into oblivion.

Our founding fathers, with solemn and reverent expression, voiced their allegiance to the sovereignty of God, knowing that they were accountable to Him in the day of judgment.

Are we less accountable today?

I think not.

I declare my allegiance to God. I know He governs in the affairs of men because I am a witness to it.

My allegiance to this nation as "a land

choice above all other lands" stems not from patriotism alone, but from the fact that I am confident that God governs in the affairs of men and nations.

We live amidst difficult, trying, and evil times, but we have no need to despair if we remain righteous.

The real issue today is not economic or political; it is spiritual—man being true to the principles which have guided the destiny of mankind from our beginning.

That is what inspired our nation's birth and independence.

Those nations only are blessed whose God is the Lord!

Therefore, my hope is that we will plead with the God of heaven to sustain this nation and inspire our leaders with wisdom and judgment; that we will resolve to keep His commandments so that we and our posterity can merit His protection, gain His mercy, and receive His blessings.

Theodore Roosevelt said over a half century ago—

"We hold in our hands the hope of the world, the fate of the coming years, and shame and disgrace will be ours if in our eyes the light of high resolve is dimmed, if we trail in the dust the golden hopes of men."

I know some of you gathered here today, and I know you to be dedicated to that "light of high resolve" in your communities.

With God's help and our devotion to high moral principles, we can keep that hope alive. That we may do so faithfully is my humble prayer.●

WHAT IS HAPPENING IN POLAND?

● Mr. EAST. Mr. President, few observers have interpreted the stirring events in Poland as astutely and eloquently as has Dr. Leopold Tyrmand in an article in today's Wall Street Journal. Dr. Tyrmand is a native of Poland who has lived for many years in the United States. He is vice president of the Rockford Institute, editor of the bimonthly literary journal, Chronicle of Culture and a noted commentator on national and international affairs. I ask that his article be printed in the RECORD.

The article follows:

WHAT IS HAPPENING IN POLAND?

(By Leopold Tyrmand)

No one knows what is happening in Poland. The Poles themselves have so many answers that precise inferences seem impossible. But whatever eventually happens in Poland will be of a magnitude comparable to the Russian revolution.

The developments in Poland differ importantly from other milestones of rebellion within the postwar Soviet empire. Tito's sedition was a conflict of personalities, and by manipulating geographic circumstance and his own secret police, the Yugoslav outmaneuvered Stalin. The Hungarian uprising was a romantic outburst of youth and army officers—a time-honored alliance in central Europe—with a disoriented society in the background. The Sino-Russian split was a conflict between two national egos fueled by ancient hatreds. The Czech rebellion was an intellectual mutiny, with no roots in the nation, which from the outset abjured confrontation with the Soviets.

RADICAL DEPARTURE

What began in Gdansk, Poland, is the first authentic social upheaval on an all-national scale in a country ruled by a Communist Party on behalf of the Soviet Union. It challenged the absolutism of communist power and, consequently, it tacitly accepted the possibility of confrontation with the Soviet Union, whose *raison d'etat* is exactly that kind of power.

Moreover the outbreak seemed, from the beginning, less like a spontaneous event and more like a prepared action, with channels of communication opened to every corner of the society and well-orchestrated approval from the entire nation.

Yet, as the special congress of Poland's Communist Party begins today, it remains unclear how such open and organized antigovernmental activity could have materialized under a regime whose ruling techniques exceed everything mankind has known in tyranny. The world expects some sensational denouncement any day.

One thing is certain: All that communism's theoreticians and sympathizers thought they knew about their faith and its materializations between October 1917 and September 1980 has abruptly come to an end. If nothing else, their *Weltanschauung* has lost its validity.

The infrastructure of communist totalitarianism's power has broken down in Poland. No one who has not lived under communism can properly understand what this infrastructure means. It is only tangentially related to the terror of the security forces or direct political persecution. Its elements were devised by Lenin and Dzerzhinsky and perfected by Stalin; under Khrushchev and Brezhnev it changed neither its nature nor its role, though some cosmetic adjustments were made.

The communist power infrastructure is based on a total control of communication that renders man powerless against any lie about or abuse of himself as a citizen and a person. It produces a sort of psychological, even psychotic, fetters unknown in even the most despotic statehood of the past. It parallels the psychological mechanism of the "democratic centralism" within the Communist Party which makes a party member believe that his absolute rulers decide his fate through his free choice.

Even the sharpest Western reporter deludes himself and his readers when he claims to have insight into the human condition under communism: it's like blackness or womanhood, a nontransferable experience. In communism every preconceived social activity must be scrutinized and endowed with an ideological rationale before it can be permitted by the party—the infrastructure of power ruthlessly exercises precise enforcement of this principle.

Dissent is old-hat, both in Eastern Europe and in the USSR, and it has always been kept under control, sometimes even encouraged and manipulated. But the efficiency of what has developed in Gdansk indicates that dissent in Poland has been transmuted into an organized effort to rewrite the rules, something unheard of until now without political violence. Thus the infrastructure must have begun to crack even before open contention erupted in Poland.

One of the ideological archtenets to which the infrastructure gave the highest priority was that the workers' unity must be monopolized by the party. Marxism-Leninism made its world career on the merciless enforcement of the premise that the idea of the workers' solidarity was *their* idea. In communist states it is a crime against the state, a capital offense, to organize, congregate or unite *not* behind the party. Once the Poles captured the notion and device of solidarity as a social weapon and used it against their communist government, they reversed the course of history.

Whether the infrastructure broke because the Poles discovered the invincibility of united action, or whether solidarity was attainable because the infrastructure broke, is unclear. Why this infrastructure, still the cornerstone of the system's unassailability in Russia, China, Cuba, Bulgaria and elsewhere, suddenly collapsed in Poland under Gierek's tenure is still little known. Whether the breakdown is an isolated Polish phenomenon, or can be exported is a question that will decide the fate of the Soviet empire, and a question to which the empire's rulers have no answer.

It is universally accepted that a prime factor in what happened in Poland was the Catholic Church, a distinct and mighty institution of the Polish reality by dint of its ancient churches, its religious mass demonstrations and celebrations that attract immense crowds. Moreover there is the towering authority of its leaders, like the current Pope or the late Cardinal Wyszynski.

All this is certainly true, but it is of less importance than the Polish Catholic intelligentsia which, under communism, acquired an even more complex influence on the society. Every well-educated young Catholic priest is, by nature, a member of this intelligentsia—which, in effect, has created a sort of shadowy Catholic infrastructure that competes with the official communist one.

This became apparent during the formative stages of the Solidarity movement. Its key consultants and theorists were prominent representatives of the Catholic intelligentsia, not always acting in precise obedience to the church's guidelines.

No one in the West should be deluded: Solidarity is a Christian democratic political occurrence, all lip service to the communist *raison d'etat* notwithstanding. It is a phenomenon that surprises even the Poles themselves. After all, the intelligentsia—Poland's ruling class since the end of the 18th Century—was always a reservoir of not religious but secular ideas like nationalism, positivism, liberalism and social democracy. The emergence of a powerful and highly intellectualized group that receives its inspiration from Catholicism and knows how to transmute religious ideology into modern political weaponry (and with explosive effects) is astounding. How it happened is not easy to explain, but worth a try.

Together with the other paraphernalia of power that Catholicism could muster, its leaders understood how to capitalize on its sudden fashionableness among not only the faithful but also the society at large. For 35 years countless jokes have circulated about how much safer it is to be Catholic than communist in communist Poland. Ultimately, Catholicism identified itself in the popular consciousness with a rejection of communist oppression, a repudiation which might bring the church misery and persecution but is nevertheless invincible.

Suddenly Catholicism relinquished the status of traditional form and became a hotbed of politicized thoughts, convictions and beliefs. This fatally undermined the communists' psychological infrastructure, a development that would have been impossible without the Catholic intelligentsia—the vital link between Church and society.

Finally, capitalism has become a silent prostulate of the Polish workers.

It would be foolish to expect Lech Walesa to admit publicly that capitalism is an economic system superior to socialism. Yet there's little doubt among the Poles that the reborn Polish syndicalism would fare much better in a healthy market economy than in the state-owned one.

The persuasion that socialism is a thorough failure is so deeply ingrained in the Polish mind that words like "people's property," "class consciousness" or "proletarian interests" will remain symbols of wretchedness and insanity for generations to come. The Poles perceive the economic aspect of communism as a sort of Mafia-like system of extortion—a daily ransom from an entire nation.

The claim so frequently made in some segments of the American press that the Gdansk

workers are "defending true socialism" is amusing and preposterous.

PROGRESS BETWEEN THE WARS

Before World War II "authoritarian" Poland had one of the most powerful labor unions and one of the most advanced social-security systems in Europe. It had a ministry of social care and national health service. In reaffirming their support for this kind of social progressivism, the Solidarity leaders are only stressing the inferiority of the communist "Workers" Party efforts in this area as compared to the prewar institutions.

The Soviet Union is in a peculiar position: Short of instigating a bloodbath it can do nothing. Most likely the Soviet leaders will resort to the oldest Russian political wisdom, that time and intrigue will sooner or later bring results. But these events demonstrate for the first time that the Soviet empire must reform or perish.

What happened to communism in Poland must have a crucial impact on the fate of Marxist ideas in the contemporary world. For the first time in Poland's turbulent history in which heroic, if unsuccessful, violence was considered a supreme value, the Poles have resorted to argument and ideology as explosives and ammunition. Their renowned heroism has never had a profound impact on the outside world, but their political maturity may alter the course of history.●

SPECIAL COMMENDATION TO SEVERAL CITIZENS OF HAWAII

● Mr. INOUYE. Mr. President, many patriots have served this Nation in times of crisis throughout our long and distinguished history. Many of them are well known to us through history books and folklore. However, there are also many deserving heroes whose deeds have escaped recognition by the general public.

I wish to bring to the attention of my colleagues the stories of several Hawaii citizens whose service to our country, above and beyond the call of duty, merit our special commendation.

In the days preceding World War II, citizens of Hawaii served as colonists in the isolated, deserted Pacific islands of Jarvis, Howland, and Baker, to establish American occupation of these strategic areas. Two young men, Richard Whaley and Joe Keliihahanui, gave their lives when they were killed in a Japanese bombing attack on Howland Island on December 8, 1941. Very few knew of their sacrifices as two of America's earliest casualties of the war.

In another case, Hawaii resident Edwin M. S. Lee and other civilian workers on Wake Island assisted the American military defense of the island on December 7, 1941, until it was captured several weeks later. Mr. Lee and others served nearly 4 years in Japanese prison camps. Unfortunately, it was not until many years later that the U.S. Government formally acknowledged their Federal service during this period.

I ask that the following articles be reprinted in the CONGRESSIONAL RECORD.

The articles follow:

[From the Honolulu Advertiser, May 5, 1981]

CASTAWAYS HONORS—40 YEARS LATER

(By Bob Krauss)

Richard Whaley and Joe Keliihahanui were the forgotten castaway heroes of World War II until yesterday.

They have lain side by side in a tiny cemetery at Schofield Barracks for nearly 40 years, their deeds unsung, their names unrecorded in Hawaii history books, their memories dim even among Kamehameha School classmates.

Yesterday they received recognition 1,000 miles from the barren coral atoll where they died on Dec. 8, 1941, during a Robinson Crusoe adventure that ended in war.

Survivors of that adventure gathered around the graves to say a prayer and spread the 48-star flag that was flying when a Japanese submarine and a bomber blasted their lonely outposts.

No one is better fitted to honor the names of Richard Whaley and Joe Keliihahanui than their companions—other young men from Kamehameha School who were trapped under fire for nearly two months on their lonely islands.

"The bomber came over every day," said Walter Burke of Aiea, one of the survivors.

"We dug fox holes and stayed under cover. Early in the morning and late in the evening we caught lobster and squid to eat. It wasn't until Jan. 28, 1942, that the U.S.S. Helm, a destroyer, picked us up.

"Richard and Joe had to be buried on Howland Island where they were killed. Their bodies were moved to Schofield Cemetery in the 1950s. Very few people even know it happened.

"When they brought us back to Hawaii, they kept us at Pearl Harbor for a month before they let us go. Then they told us not to talk about it."

The strange story of Richard Whaley and Joe Keliihananui began in the 1930s, when Pan American World Airways was pioneering air travel across the Pacific.

"There was great interest in the U.S. Department of Interior in establishing United States possession for Pacific Islands that might serve as air bases," said Abe Piianaia, director of Hawaiian Studies at the University of Hawaii, who is also a survivor.

"I believe the idea came out of the then Bureau of Air Commerce, a single desk at Interior. The director was Bill Miller. His idea was to colonize the uninhabited Equatorial Line Islands and establish American possession.

"In Hawaii, he met Bishop Estate trustee Albert Judd, who suggested that Hawaiian boys from Kamehameha Schools would make good colonists because they were disciplined."

The unique operation began in 1935. Some 135 boys participated until World War II put a bloody end to their occupation of Jarvis, Howland and Baker Islands.

"In the beginning, we lived in pup tents," said Soloman Kalama of Kailua, one of the colonists.

"There is no fresh water on the islands. A supply ship brought it in 52-gallon drums. If the sea was too rough to bring it to the beach in boats, they just dumped the barrels over the side and let them float in.

"You don't know how heavy a drum like that is until you try to roll it across a soft sand beach. There were only four of us on each island at a time.

"The drums were so heavy we didn't try to roll them across the island to the camp if they landed on the wrong side. We'd just walk across the island when we needed water."

Eugene Burke of Aiea, brother of Walter, said their main job was taking weather observations and sending back weather reports on a ham radio.

"There wasn't much to keep us busy," he said. "When I stood on top of Baker the first time, 20 feet above sea level, I said to myself, 'Can I make it out here for six months?' The challenge made it exciting."

Walter Burke was on Baker when the war broke out. The colonists with him, all Hawaiians, were Blue Makua, James Coyle and James Pease.

On nearby Howland Island, the colonists were Richard Whaley, Joe Keliihahanui, Thomas Bederman and Elvin Matson.

"The four of us on Baker lived in a wooden shack we called the Government House," said Burke. "There was one on each of the islands.

"I got up on Dec. 8 at dawn and took the flag outside to raise it. There was a Japanese submarine about 100 yards off shore. I heard a 'whang' and a shell blasted the top off the government house.

"I ran inside and told the boys we'd better skedaddle out of there. I tell you, we were four scared Hawaiians taking off across the island. Jesse Owens couldn't have run any faster.

"We hid all day. A bomber came over and dropped some bombs. I think it was the bomber that killed Joe and Richard on Howland. But none of us really knows how it happened because the other two boys never wanted to talk about it.

"That night we sneaked back to the Government House. The shells had blasted everything. But we saved some tin from the roof and made sun shades for our fox holes. We covered the tin with brush so the bomber couldn't see us.

"That bomber was based in the Marianas Islands. It was a big, four-engine flying boat that came over every day around noon.

"We saved as much of the food as we could. The rats had gotten into the sugar. There was a little coffee. It's easy to live off the land there. We had plenty of dried fish. You can pick up squid and lobster with your hand.

"For greens, we picked palolo leaves.

"That Christmas we had lobster for dinner. We sang Christmas carols under the moon that night. I wasn't sure we'd ever get picked up and I expected the Japanese to land any time.

"When the U.S. Navy ship came, I thought it was Japanese and told the boys to stay hidden. The ship put a boat over and started rowing to the beach. I thought, 'Oh boy, we've had it now.' Then I saw blond hair and I knew they weren't Japanese."

At the last minute, Burke cut his foot on a piece of iron, he said. He was bleeding so badly he was afraid of attracting sharks if he swam to the boat and the Navy officer in charge refused to row to quieter water.

"It was Blue Makua who swam back and got me to swim to the boat," said Burke.

"During the whole time we were being bombed. I kept the flag. Before we left the island, I buried it in a gunnysack and piled stones over it. In 1943, I went back to Baker to help build the airstrip.

"The first thing I did was find the rock pile and dig up my flag. I brought it home and have kept it ever since."

Burke said he went to Howland Island with some of the construction crew to find the graves of Whaley and Keliihahanui. Later, the bodies were taken to Schofield and reburied.

Somehow, nobody ever got around to arranging public recognition for two of America's early casualties of World War II. So their friends decided at a reunion last week that it was time to honor the memory of their fallen comrades.

They are all in their 60s, those Kamehameha School boys who used to surf on redwood boards.

The party included William Whaley, brother of Richard, well known as a former professional baseball player. The former colonists present were the Burkes, Soloman Kalama and Joe Kim.

Eugene Burke spoke over the graves for the group:

"At this time it is appropriate that we say a silent prayer for these two. They are with us in spirit. They fill our hearts with pride. They gave their lives for us."

For a long time the survivors stood beside the graves talking story, remembering.

[From the Honolulu Star-Bulletin, Mar. 20, 1981]

CIVILIAN'S WAR EFFORT RECOGNIZED BY NAVY

(By Lyle Nelson)

More than 39 years after Edwin M. S. Lee of Makakilo helped Marines vainly defend Wake Island and after serving nearly four years in Japanese prisoner of war camps, the U.S. government finally acknowledged his "fighting spirit, courage and devotion to the common cause in the highest tradition of the Navy."

Written May 8, the "thank you" from Navy Capt. W. P. Behning of the Navy's personnel staff in Washington, D.C., ended many years of persistent effort by Lee.

The oddity is that Lee was never in the Navy. As a civilian employee of Contractors Pacific Naval Air Bases, Lee was a deckhand on a tugboat working in the Wake lagoon on Dec. 7, 1941.

And when the Japanese attacked Wake, everyone had to pitch in.

In all the years since, Lee has been after the government to recognize what happened to him on Wake.

"I just never quit; I kept going after them because it was only right," Lee said in an interview this week.

In fact, Behning's letter reads, "On behalf of my shipmates, I would like to express a long-overdue sincere thank you for your patriotism, extraordinary service and dedication to the U.S. Navy."

Lee was helped in his quest for recognition by Hawaii's congressional delegation and his union, the Hawaii Federal Lodge, No. 1998, International Association of Machinists and Aerospace Workers, and its director, Ernie Reyes.

Japanese bombers came over at noon on Dec. 7 and for the next 16 days Wake was under constant attack. Lee and many of the other 1,500 civilian workers there helped Marine and Navy defenders to repulse the invasion attempts.

A Navy commander notified Lee and about 15 other men from Hawaii that under martial law he was making them members of the military defense force, sort of deputizing them on the spot like vigilante sheriffs in the Old West.

Starting with an appeal to Delegate to Congress John A. Burns in 1956, Lee sought to have his war record at Wake accepted legally to extend his total government service time for retirement and medical benefit purposes.

But Lee had to prove "active participation in the defense" of Wake.

The testimony of witnesses, documents and his own testimony in a war crimes trial on Guam in 1948, finally helped to establish Lee's role on Wake.

Lee retired from the Navy's public works center at Barbers Point last year.

With the notification that he was part of the gallant stand on Wake, Lee can add four years to his already 23 years of government service for the Navy.

This will increase his retirement pay and make him eligible for medical benefits that stem from a service-connected disability. Lee said he received a back injury when he was knocked unconscious by the concussion of a Japanese bomb on Wake. In addition to new medical benefits, Lee has received an honorable discharge and three World War II war medals.

Lee's education was limited to the eighth grade at the Watertown School located where Hickam Air Force Base is now. He helped build Hickam and with Hawaiian Dredging was sent to Johnston Island in 1939 before going to Wake.

Wake was surrendered two days before Christmas 1941, although Lee and many other POWs were not moved from the atoll until the following September.

During the Japanese occupation of Wake, Lee witnessed the beheading of an American serviceman and was forced to dive into 40 feet of water—without any equipment—to retrieve an American torpedo that had been fired at a Japanese ship bringing supplies to Wake, he said.

While a POW at Yokosuka and Yokohama in Kanagawa Prefecture, and in Tokyo, Lee said he was beaten more than once. He also saw the Doolittle raid of 1942 and the Tokyo Bay plane crash that killed Gaylord Dillingham of Honolulu.●

WHAT REAGANOMICS IS ALL ABOUT

● Mr. ARMSTRONG. Mr. President, today's Wall Street Journal printed a thoughtful article about why high tax rates impair personal development and economic growth.

The author, David M. Smick, forcefully writes that what America needs is "a climate of economic buoyancy—that sense of economic boundlessness where a person can, with energy and inititative, take a new idea as far and as high as he or she wants" and that with such an economic climate "our entire economy will gain in production and jobs; and the Nation will regain the energy and opportunity and spirit upon which its greatness depends."

Mr. Smick's article paints a bright future for America once it is unshackled from a tax code that now discourages individual initiative. The article is insightful, and it places Mr. Smick on the forefront of the new thinking that is reshaping America's political landscape. The article is well worth reading, and I commend it to my colleagues. I ask it be printed in the RECORD.

The article follows:

WHAT REAGANOMICS IS ALL ABOUT

(By David M. Smick)

In the late 1930s, Chester Carlson had a revolutionary idea—an electrostatic printing process—which he tried to sell to the top mimeograph companies in America. Turned away time and again, he finally converted his kitchen into a workshop and went into business for himself. There was risk and a shortage of capital, but the tiny enterprise survived and prospered.

Today, we know it as Xerox.

Were Mr. Carlson alive, he probably would ask, "What ever became of those smug mimeograph companies?" The answer is that they fell victim to what Joseph Schumpeter, the economic theorist, called "the creative destruction of capital"—the process by which a new idea enters the marketplace, making existing capital worthless.

What sounds like some arcane concept is the heart of Reaganomics. It explains the President's understanding of how growth is produced in the private sector, and why he believes, against a multitude of critics, that his across-the-board tax cuts for people will lead directly to new jobs.

To give the President credit, most policymakers have in recent years understood the process of job creation about as well as John McEnroe has mastered the art of diplomacy. Mention "jobs" and the picture is of giants of industry like Chrysler and U.S. Steel either protecting existing jobs or expanding plant and equipment to create new ones.

Actually, the Fortune 500 have experienced virtually no net job growth for more than a decade. The newest research shows instead that nearly all new jobs are coming from firms with precisely the opposite characteristics.

They are not only small, but minuscule. Nearly 70% of new jobs come from firms with 20 or fewer employees. Almost 100% of net new jobs in the Northeast come from such firms.

They are young. Most new jobs come from firms four years old or less.

They are unpredictable and unstable. The more stable a firm is, the less likely it is to produce new jobs.

FAIL NATIONALLY AT SAME RATE

Many of these fledgling enterprises will go out of business (four out of five do so within the first year) with new ones springing up to take their place. Frostbelt or Sunbelt, such businesses fail nationally in metropolitan areas as roughly the same rate—8% a year. Booming Houston, according to David Birch of MIT, proportionally has more business failures today than the old cities of Boston, Baltimore, Hartford—indeed more than almost every other city in the U.S.

What these facts and statistics create is a perfect object lesson. Houston's success stems not from a strong defense, but a strong offense. Entrepreneurs with new ideas are creating jobs at a pace far exceeding the rate jobs are lost, providing Houston a tremendous engine for prosperity.

The secret to maintaining high levels of national employment is hardly import quotas or Chrysler-like bailouts or even tax proposals aimed merely at modernizing existing plant and equipment.

The secret is creativity encouraging a groundswell of men and women with fresh ideas to strike out on their own. The secret lies in the enterprises yet unborn, the oil wells yet undrilled, the inventions yet untried. Some of these fledgling entrepreneurs will fail, but others—like Chester Carlson—will replace today's capital and products with new and better ones, to the benefit of all of us.

The irony is that city planners, government growth economists and even successful corporate executives usually find this thinking unrealistic. The reason may be that productive change is not in their own vested interest. But it also may result from the great frustration that in this age of sophisticated econometric models and corporate "five-year plans," enterprise and job growth is just as unpredictable as it was decades ago. It still involves the dynamic process of two competing forces; success and failure. And perhaps most frustrating, it continues to depend directly on the creative implementation of new ideas by folks who, in the eyes of corporate America and the federal government, appear unpolished and relatively inexperienced.

If you have met a true entrepreneur even once, you know they tend to be nothing but crazy. Like Chester Carlson, they appear illogical dreamers, even though many have that inner genius for success. As a sophisticated business or government executive would you, or could you, take the risk of investing in such unpredictable characters knowing that many will end up as miserable failures? Perhaps this is why large institutions have not provided many permanent new jobs.

While entrepreneurs may be crazy, they are crazy like a fox. Most expect to lose money in the early years; still they make a careful calculation of current risk against future reward. They are society's dreamers and will endure incredible risk—far more than established business—with promise of great future reward.

In a sense, every individual is a potential entrepreneur. By that I mean that we have near limitless sources of both human and

financial capital—professionals in high tax brackets working only three days a week, mid-level industry technicians teeming with new ideas but apprehensive of the risks of individual enterprise, and many others.

Notice this is not just capital formation, but capital mobilization. Capital is more than money. It is also productive ability and thus exists in the minds, hands and hearts of people. The question is, how do you encourage these potential new wealth and job creators to invest their talent and savings in a new enterprise instead of in real estate, elaborate tax shelters, money market funds or in doing nothing at all? What they need is a climate of economic buoyancy, so necessary to individual initiative, and a system that capitalizes on human nature by strengthening the link between effort and reward.

House Speaker Tip O'Neill calls this "the whims of free enterprise." With all due respect, it is precisely such entrepreneurial risk-takers, now lining Route 128 outside Boston with small "hi-tech" firms, who are shouldering his city's job and tax base. If he simply visited these enterprises, the Speaker would discover that entrepreneurial success in America is taxed and harassed more than in just about any other free industrialized country. By the sheer force of logic, he would immediately help lower or eliminate the capital gains tax, lower the corporate rate, eliminate senseless overregulation and, most importantly, lower marginal tax rates on personal income across the board.

POTENTIAL ENTREPRENEURS

After all, 90 percent of American businesses still pay taxes through the personal schedules. These include proprietorships, partnerships and all the other noncorporate entities engaging in enterprise. Just as vital are potential entrepreneurs who, before entering a risk situation by pulling savings out of tax shelters, look instinctively to their personal tax bracket, which inflation has pushed higher and higher in recent years.

This is why President Reagan calls his across-the-board personal tax-rate reduction plan a "small-enterprise incentive" and why he favors the proposed end to the distinction between "earned" and 'unearned" income (establishing a top tax rate on personal income of 50 percent now, with the goal of 35 percent as soon as is politically possible). Both increase the after-tax reward for greater entrepreneurial risk, for the direct creation of jobs.

Congress, with a false sense of sophistication, has always preferred more complicated solutions to the creation of jobs—the targeted gimmicks with bulit-in "triggers" that have failed for so many years. Yet the birth of an enterprise has an elusive, almost metaphysical quality that makes targeting, planning, certainty and "sophistication" most difficult. Something as common and essential as the ballpoint pen was conceived by, of all people, an insurance executive on his summer vacation. The arrival of the automatic transmission had little if anything to do with the multi-million-dollar engineering departments of Detroit's Big Three.

Growth involves ideas and thus is unpredictable. All we can provide is buoyancy—that sense of economic boundlessness where a person can, with energy and initiative, take a new idea as far and as high as he or she wants. If we can keep that initiative from being stifled, as it is today by an inefficient tax and regulatory system, people may once again follow their dreams. Allow entrepreneurs and potential entrepreneurs across-the-board worthwhile returns on their effort and they will start taking risks. Our entire economy will gain in production and jobs, and the nation will regain the energy and opportunity and spirit upon which its greatness depends.●

UNITED STATES NEEDS A DOMESTIC SUGAR PROGRAM

● Mr. INOUYE. Mr. President, I wish to share with my colleagues editorials from Hawaii's two major newspapers regarding the sugar provision included in the Senate Agriculture Committee's Food and Agriculture Act of 1981.

I strongly support the Senate Agriculture Committee sugar provision and am deeply concerned over the erroneous reports, studies, and news stories that have been recently published on sugar. The sugar industry is extremely important in my State of Hawaii, and to many other States across the Nation. More importantly, since the expiration of the Sugar Act in 1974, American sugar consumers and producers have been at the mercy of the extreme price fluctuations prevalent in the sugar market.

The domestic sugar loan support program contained in S. 884 will provide added stability to the sugar market. Given the USDA's economic outlook for sugar over the next 5 years, the program's 19.6 cents per pound loan rate would probably not involve any cost to the Government. Most importantly, the stabilizing influence of the program will have a beneficial effect on consumer food and sweetener expenditures.

The United States produces just over half of the sugar we use. The rest we import. Hawaii supplies approximately 20 percent of the sugar grown in the United States, or 10 percent of the entire amount of sugar consumed in our country. Thus Hawaii, other producing States and our Nation's consumers must suffer through the price fluctuations in the world market.

The world market for sugar is one of the most volatile commodity markets. Prices may change dramatically as a result of small changes in production or consumption. For example, in 1974 and early 1975 sugar prices went from 9.6 cents to almost 65 cents per pound and back down to around 9 cents per pound. And again in just the past 18 months, sugar prices moved from 9 cents per pound to 45 cents per pound, back down to below 20 cents per pound today.

Consumer and industrial users benefit from low sugar prices, while sugar producers incur substantial losses. The opposite occurs during times of high prices, when the consumer pays dearly for sugar while the sugar producer may not make up for losses incurred when prices were low. The extreme price fluctuations have cost the American consumer and the domestic sugar producer dearly.

Most of the world's sugar is not traded on a free market. Of the annual consumption of about 90 million metric tons, about 85 percent is consumed in the country where it is grown or is traded through special marketing agreements. Of the remaining 15 percent of world sugar production, there are substantial trade restrictions on about two-thirds.

About one-fourth of the world free market sugar is sold in the United States, and we depend on that market for about 45 percent of our sugar supply. The result is exaggerated swings in price following even small changes in supply or demand.

It would be justifiable to expect U.S. sugar producers to compete with foreign sugar producers if it was in a truly free market. However, how can we expect U.S. sugar producers to compete in a market where sugar is produced through foreign government subsidy and Government-manipulated low wage rates?

The United States needs a domestic sugar program, and it is my hope that my colleagues will support the sugar provision now part of the Food and Agriculture Act of 1981. This program will bring greater stability to the U.S. sugar market, and will benefit both the sugar producer and consumer of the United States. I ask that the following two editorials which expand on the points that I have made be printed in the RECORD.

The editorials follow:

[From the Honolulu Advertiser, May 12, 1981]

SUGAR NEEDS SUPPORT

The end of the week should tell whether an important hurdle has been cleared in efforts to get sugar included with other commodities in the 1981 Omnibus Farm Bill that Congress is expected to pass later this year.

The Senate agriculture committee has approved a price support program for sugar under the bill. A House agriculture subcommittee earlier did the same. By Friday the full House Agriculture Committee is expected to send its version of the farm bill to the floor.

The United States imports half the sugar it uses, buying on the so-called world market where other countries sell their surplus. Prices and supplies fluctuate wildly on this market, and domestic prices follow along.

The goal of a federal price support program ought to be to ensure that prices are high enough so efficient producers can stay in business but not so high as to unfairly pinch the pocketbook of consumers.

As far as the Hawaiian sugar industry is concerned, price stability is a main goal. Several months ago when the sugar industry made its annual report on 1980—its most prosperous year since 1974—the price of sugar was 41 cents a pound. Now it is in the 15- to 17-cent range.

Inclusion in the farm bill would guarantee sugar producers across the country access to what is called a non-recourse loan program. Under it, when sugar prices fall to a specified level, producers would be able to get loans from the federal Commodity Credit Corporation using their crops as collateral.

If prices go up the producer could sell his crop and repay the loan. If prices stay low the producer would forfeit the collateral, keep the money and the corporation would hold the sugar until prices rise again.

In 1977 and 1978 a loan program was in effect and the corporation profited $67 million. Such a program is legally possible now, but only at the discretion of the Secretary of Agriculture who has indicated that the administration does not believe the sugar growers need help. Inclusion in the farm bill would guarantee the loan program to sugar growers when low prices prevail.

A stable, reasonably prosperous sugar industry is obviously important to Hawaii. This is especially so now that tourism is stagnant and always uncertain federal spending—the "third leg" on which Hawaii's economy stands—is being reduced sharply in some areas.

But the stability of the sugar industry is not just a local concern. Hawaii and Florida each represents about 20 percent of domestic sugar production and the rest is spread across the country, particularly in the South and West.

Finally, the decline in the American capacity to produce sugar, which could lead to an unfortunate over-dependence on other countries, is something everyone needs to be concerned about.

Prospects for sugar's inclusion in the farm bill are just better than even, observers believe. The $100 million potential cost of the program—out of an expected $2.1 billion farm bill—is not large. But sugar is a small-fry in the funding competition next to farm products like wheat, corn, milk and tobacco.

There is obviously a trend, led by the Reagan administration, to cut federal farm aid, or to increase it only modestly. There is still a chance that sugar could be left out in the general fray. But sugar would be an unfortunate place to make cuts.

[From the Honolulu Star-Bulletin, May 20, 1981]

PROTECTION FOR THE SUGAR INDUSTRY

It wasn't going to last forever, and it hasn't. We mean the bonanza of high sugar prices. They're down again from a peak of 43 cents a pound last November to less than 16 cents.

That is the break-even point for the Hawaii sugar industry, or maybe a little below. The party is over, for a while at least.

The industry went for the same ride on the price roller-coaster in the mid-1970s. That experience produced the International Sugar Agreement (ISA), which was supposed to stabilize world prices. So far the ISA hasn't been effective, partly because the European Economic Community (Common Market) has refused to join.

Hawaii's sugar industry has maintained that it needs domestic legislation to replace the Sugar Act, which expired in 1974, in addition to the ISA.

It was difficult to gain support for that view in Congress when prices were so high. Now that the pendulum has swung the other way, the case for new sugar legislation has been strengthened.●

THE WORLD HEALTH ORGANIZATION'S CODE ON INFANT FORMULA

● Mr. EAST. Mr. President, the recent controversy surrounding the World Health Organization's code of marketing for breastmilk substitutes has generated much heat but little light. We all want to protect and improve the health of infants. Is the WHO code the way to do so?

In a recent address at a meeting sponsored by the Heritage Foundation, Assistant Secretary of State for International Organization Affairs, Elliott Abrams ably defended the Reagan administration's position.

I ask that his address be printed in the RECORD.

The address follows:

DISCUSSION OF THE WHO CODE ON INFANT FORMULA

(By Elliott Abrams)

I welcome the opportunity to be here this afternoon to talk with you about the United States' decision to oppose the World Health Organization's International Code of marketing Breastmilk Substitutes.

Last month we, as a nation, stood alone in voting against the Code after a careful review revealed that little, if any, of it could be implemented in the United States. We acted only after thoughtful consideration of all of the issues involved. Although both the House and Senate have raised questions about our vote, we remain firmly convinced that there are portions of the Code which are contrary to the best interests of both the United States and of the world community, and that our vote was correct.

As we review the Code and the Reagan Administration's reaction to it, I think it is helpful to separate health issues from political issues. We found the Code wanting on both counts; but still the issues are different and should be discussed separately. Let us start with the health issues.

I do not want to represent myself as a health expert. After all, I am a lawyer, not a doctor, and I represent the Department of State, not the Department of Health and Human Services. Yet even to a layman, I think it is obvious that there was considerable exaggeration and distortion in the argumentation surrounding this code, and even in the code itself. For almost every scientific study claimed to prove one thing, another study claimed to prove the opposite. Nevertheless, let us look at some of the basic considerations.

Let me begin by saying that the medical profession is unanimous in saying, and we of course agree, that breast milk is the superior form of infant feeding. We will continue to promote breast feeding through HHS programs at home and AID programs in the Third World.

But the code itself is a different issue. Just because we support and want to promote breastfeeding, we need not support every document that purports to deal with the issue. In regard to this particular document, careful thought needs to be given to whether it is appropriately modest in its claims and whether it appropriately recognizes the debate that still exists on many of the health claims on this issue. The fact is that there are many differences of opinion.

For example, the code is based on the supposition that Third World mothers who would otherwise breast feed are led into using the formula by the promotional activities which are said to be a significant cause of the decline in breastfeeding. It is also argued that this declining rate of breastfeeding accounts for infant deaths which are associated with misuse of formula and which could otherwise be avoided.

But these suppositions should not be lightly accepted as the whole truth. For one thing, decreasing breastfeeding is directly associated with the phenomena of urbanization and industrialization. Simply put, city dwellers in the Third World are less likely to breast feed than the rural population. In part, this is simply because many more urban women work outside the home and cannot arrange to breastfeed.

Needless to say there are also many women who choose not to breast feed, and others who are unable to breast feed successfully.

Thus it cannot be said that promotional activities of the infant formula industry are the main determinant of the rate of breastfeeding. In the U.S. we have a free economy which permits the promotion of infant formula for profit. In the last ten years the rate of breastfeeding has doubled. In many Communist and Socialist countries such as the Soviet Union, or Hungary, or Algeria, where production and advertising of infant formula for profit is forbidden, the rate of breastfeeding continues to decline. In my view, we learn from these facts that advertising simply has very little to do with the rate of breastfeeding. Supporters of the Code who stress that it is being produced by profit-making corporations and who ignore the kind of facts I have just mentioned are displaying their own ideological bias against private corporations.

Supporters of the code also claim that the use of infant formula causes up to a million deaths a year. Now this figure comes out of thin air. There is no factual or demonstrable basis for it. It is a straight-out guess, presented to us by polemicists as undeniable truth.

But if there are deaths associated with the absence of breastfeeding, here is what they mean. They mean that the use of contaminated infant food costs many lives a year which could be saved if mothers breastfed their infants instead. This argument assumes that there are only two choices for mothers: to breast feed or to use infant formula. In fact, millions of mothers in the Third World use harmful breast milk substitutes such as local water mixed with corn, sugar, flour, or rice. In many cases, the impure water which they mix with these foods to give their children is very damaging or even fatal.

Now it should be clear that water is the culprit in that case. And it should be clear that if that mother switches from using contaminated local water and sugar, to using contaminated local water and infant formula, the health of her infant is no worse off. Indeed, it may even be improved.

Critics of infant formula are vociferous in citing the incorrect use of it as a menace to infant health. (The Washington Post just recently ran a long story with this contention right here in Washington.) But let us not be naive about the choices that are available to mothers. In most developing countries, if mothers gave up using infant formula, their only real choice is to go to sugar water or cassava root or something even less nutritious.

In short, we are not convinced that the code was based on accurate assumptions. Indeed, it seems clear that the code and its supporters overstate the role of infant formula marketing in leading women away from breastfeeding. They also appear to ascribe to infant formula certain health evils that are far more broad and far more pervasive. The fact is that infant formula as produced is a safe and nutritious product, for which there is clearly a legitimate market And it is a product that could not possibly be responsible for all of the evils ascribed to it. As Dr. George Graham of the Departments of International Health and of Pediatrics at the Johns Hopkins University recently testified before Congress:

"There is a very real danger that the formulation of a code devoted to the control of infant formula marketing practices, no matter how carefully written, will leave the impression that a major problem has been solved and delay or prevent other much more important actions that need to be taken."

I would like to turn now to the other side of the Code—its political side. If the health issues are, as we believe, complex, if honest men and women can differ on them, what explains the terribly high emotions involved in this dispute? What explains some of the more extreme provisions within the code and claims about it? The answer is not to be found in the field of health policy but rather in the field of politics. In my personal view the Code was dragged into the current dispute over North/South relations, the New International Economic Order, and the role of the multinational corporations. For two years the United States engaged in serious negotiations to get a code we could vote for. But the code as it emerged raises very serious problems.

First, the Code calls for a complete ban on advertising of infant formula to the general public and for restrictions on the flow of information between manufacturers and consumers. It would not restrict misleading or untruthful advertising only, but all advertising no matter how accurate. This is a position that runs counter to our Constitutional guarantee of free speech, and serves to underscore the dangers of similar moves currently underway in UNESCO to regulate the free flow of information to the public

through the media. In both cases, that of infant formula manufacturers and that of the press, there is an effort by an international organization to limit the flow of accurate information which is being supplied by a profit-making private corporation. In both cases, the United States has taken a position of firm opposition.

An additional problem is that the Code goes into extensive detail about internal corporate operating procedures. For example, it recommends that salesmen not be paid bonuses based on sales volume. We thought this a completely inappropriate provision for an international health code, and on which was clearly informed by a strong anti-corporation bias.

The Code was in addition subject to the interpretation that its provisions are binding on corporations even though they are only recommendatory to governments. In our view, the World Health Organization is an intergovernmental organization which can have no independent authority over the private sector in any country. We oppose any effort by the United Nations system to control private corporate activity.

Finally, let me mention one other problem. The Code appeared to interfere with the role of health professionals in dealing with their patients by assigning to governments, not doctors, the role of ensuring that families are informed about infant feeding. Assigning more and more tasks to the States is a practice favored by many nations but not one that the U.S. wishes to encourage by a "yes" vote. The Code states that "governments should develop social support systems to protect, facilitate, and encourage" breastfeeding. As Dr. Graham noted in his testimony, "the use of the word 'societies' instead of 'governments' would have recognized the fact that in most non-Socialist countries many of these functions are carried out effectively by private voluntary organizations. . . ."

Dr. Graham goes on to discuss another troubling portion of the Code, Article 4.1. I quote Dr. Graham's testimony:

"This article, in its entirely, states: 'Governments should have the responsibility to ensure that objective and consistent information is provided on infant and young child feeding for use by families and those involved in the field of infant and young child nutrition. This responsibility should cover either the planning, provision, design and dissemination of information, or their control.' No matter how it is read, this article is proposing prior government censorship of scientific and health information: in free countries such shackles are totally unacceptable, even when governments might have a great deal of expertise on the matter.

"In many developing countries no such wisdom exists in the government: the article is an open invitation to arbitrary imposition of ideas and to the denial of access by the public and health personnel to dissenting opinions or evidence. If the intent was to control only manufacturers and distributors, whether proper or not, the letter of this article can and will be interpreted to prevent scientists, health workers, community representatives, or the communications media from speaking up when they disagree with official thinking. It can and will be used to block the circulation of scientific journals, particularly if they carry advertisements."

We consider it deeply unfortunate that a Code was not developed which took full account of such complexities in the infant feeding issue and which the United States could support.

And so, despite our governmental interest in encouragement of breast-feeding, we were faced with a code that was simply defective from our point of view. We would not, or could not, have enacted it into law in the United States, and we were concerned in general about the propriety of WHO's involvement in codes addressed to the commercial sector. It is true that the code was not binding, that it was only a recommendation to member governments and could have been rejected or ignored. But we considered it hypocritical to vote in favor of a code we could not implement ourselves. And under the circumstances, we did not believe it proper to recommend the code to others.

The United States will continue to promote breastfeeding as the best form of infant feeding, but we cannot support a detailed and inflexible code, global in scope and rigid in structure, that our laws and our traditions would never permit us to implement at home. We believe strongly in this position. We were prepared—if necessary—to stand alone on it and, as it turned out, we did. It was a risk we were willing to take. To begin changing our positions whenever they are unpopular in the United Nations is a policy with staggering implications, and one this Administration rejects completely.

Where do we go from here? For one thing, it should be clear that our vote on the code has been misperceived by many. The language adopted by the Senate yesterday acknowledged that misperception, and we welcome the Senate's recognition of this problem. It is ridiculous to interpret our vote as a vote against babies, against breastfeeding, or against better nutrition for infants and mothers. Nor is it a vote against the UN system. It was a vote on one piece of paper—this Code—and simply a reflection of our views that the code was inapplicable and unimplementable in the United States and contained a number of premises and conclusions that were not based on decisive medical evidence.

The big storm we have seen in the past few weeks was unnecessary. I have argued time after time against the intrusion of politics in the UN specialized agencies, and here we see the typical result of that intrusion. What should have been a measured debate on health issues was transformed into a shouting match over intentions and over integrity. Instead of disputing the Administration's position with persuasive medical evidence, too many opponents spoke of killing babies, or of big business' influence, or simply invented evidence.

Let me assure you that we in the Reagan Administration will never be swayed by this kind of polemics. We will stick to the policies we believe in, no matter how polemical the charges against us. We are aware that in many votes on issues of free press or free market economics, as on many issues affecting so-called North/South relations or issues related to the New International Economic Order, we will be in a small group, or even alone. Rest assured this will never change our minds or change our vote.●

PROGRESS IN POLAND

● Mr. KENNEDY. Mr. President, today, July 14, marks an important day for Poland—and potentially for Eastern Europe and the world. A Polish Communist Party Congress convenes in Warsaw based on elections by secret ballot by all members of the party; 80 percent of the delegates are participating for the first time. New democratic forces are at work in Poland; at the same time, the Polish people face serious economic problems which are the result of decades of mismanagement by the state.

It is essential to the Polish people, and of the greatest importance to the world, that they proceed in resolving their own internal problems without external intervention. I have complete confidence in the ability of the Polish people, government and church to do so in a manner which contributes to both peace and their future political and economic progress.

I also believe strongly that the international community should respond generously to Polish economic needs and make it possible for Poland to resolve its longer-term problems. Both Communist and non-Communist nations and both the private and the public sectors should play full and supportive roles in economic assistance to Poland. In addition to the decision last year to provide Commodity Credit Corporation credits to Poland, I call upon the administration to provide further credits for corn and other food supplies at this critical time for Poland and the Polish people.

Mr. President, William Beecher and Jim Hoagland have written thoughtful articles, in the Boston Globe and Washington Post respectively, on the current economic and political situation in Poland. As Mr. Beecher points out, we must not be surprised by "mistakes of omission and commission * * * during a period of transition" to decentralized economic management so essential to Poland's long-term economic success. Mr. Hoagland explains the "Polish paradox": those who wish to reform the political system in Poland must be careful not to destroy the progress achieved to date.

On this important date for Poland, we all join in wishing it well in its critical passage to economic and political success for the Polish people.

I request that William Beecher's article, "Have the Poles Reached a Time of Decision?," and Jim Hoagland's article, "Polish Paradox," be printed at this point in the RECORD.

The articles follow:

[From the Boston Globe, July 10, 1981]

HAVE THE POLES REACHED A TIME OF DECISION?

(By William Beecher)

WARSAW.—It may seem a small thing, but historians and sociologists may look back at the summer of 1981 as marking a turning point in the expectations of the next generation of Poles.

It's traditional that Polish babies, when they cry out in their carriages, are given small, hard cookies, just as mothers in the United States pop a pacifier in a wailing infant's mouth between feedings.

About six weeks ago, the baby cookies disappeared from the shelves. Why, since they are baked locally from flour and sugar?? Who can say about Polish foodstuffs, a journalist answers. Things just disappear. There is no explanation. There is very little in the markets.

Now, in perambulators all over Warsaw, infants must be satisfied with rubber and

plastic pacifiers. If the situation persists, it could prove significant. In the past, from their earliest recollection, Poles had only to cry out to be rewarded with something sweet. Inadvertently, that may have shaped a nation's expectations that instant gratification was the normal condition.

For the last three decades the Poles have always demanded good food at low prices. Often they have taken to the streets and rioted when higher prices threatened that condition—twice even bringing down governments.

But, although sweeping changes in the political, social and economic structures are being won at the insistence of workers and farmers, currently skimpy market shelves are expected to get even worse.

Plant managers and state farm directors, who depended on directives from bureaucrats in Warsaw to tell them what to do, are suddently going to have to make a lot of their own decisions, being judged on the heretofore unheard of test of whether they can turn a profit. Many mistakes of omission and commission can be expected during a period of transition.

As grandiose plants ordered by the previous regime are closed because they are uneconomic, will displaced workers return to farms which are desperately short of help? City life can be more exciting and farmers are looked upon by society as country bumpkins. But as private farmers, who own 75 percent of the land, begin to get realistic prices, farm incomes should spiral compared with urban salaries, as in Hungary. Or will the unemployed insist on retraining for service jobs, such as automobile repair?

What about the hundreds of thousands of bureaucrats and managers and editors—the new middle class—whose cars, nice apartment and television sets have come to them less from ability than loyal membership in the Communist Party? For many of them the lifestyles they have become accustomed to could be jeopardized if future rewards are based on performance under the most competitive circumstances. Will they nonetheless implement the changes, or obstruct them in hopes they will flounder further and people will finally decide to trade their new freedoms and five-hour lines for meat, for a return to the old ways where perhaps a relieved and grateful Soviet Union will send in handsome bounty?

In all walks of life, despite what should be a heady mood here, one meets 10 pessimists for each optimist.

An intellectual puts the case this way: Over the past 35 years there has developed a new bourgeois class of people who gained everything not through talent but party membership. They suddenly realize they can lose everything, much like Franco's middle class in Spain. So instead of talking about renewal and solidarity, they keep quiet. They follow orders and keep the situation in suspense—until the majority in Poland get so tired of lines they will agree to anything, even a return to the old ways, to get meat and rice without ration coupons. The Russians will not invade. They will just wait and the fruit will fall into their hands—in the autumn.

A Solidarity official sees it differently: the mismanagement and waste of the previous regimes were appalling. This crisis had to arise, it was only delayed by loans from the West. Our economic situation is so bad that turning back to the situation of the past will not end the lines, or put meat in the shops. There's no turning back. It's gone too deep.

[From the Washington Post, June 22, 1981]

POLISH PARADOX: PARTY'S FOES TRYING TO KEEP REGIME AFLOAT TO REFORM IT

(By Jim Hoagland)

GDANSK, POLAND.—Jan Labecki, first secretary of the Communist Party in the Lenin Shipyard, member of Poland's Central Committee and seeker of a new form of communist rule for his country, fidgeted as his visitor returned to the question of the banner that had been strung across the shipyard's main entrance early that morning.

It was now midday and the banner still hung in the defiant spot chosen by Solidarity union activists, their neat black lettering demanding the release of Poland's political prisoners. Soon, regional officials would be passing beneath it as they gathered at the shipyard to elect delegates to the national Communist Party Congress, and Labecki was acknowledging that the banner would still be there to greet them.

"Find somebody to take it down," the party administrator challenged his questioner. "There would be trouble, and whoever took it down would be out of a job and would never get another job here. The one who replaced him would not even try the next time."

"In the history of Poland it is always like that," he continued. "At one time you can do whatever you want, without responsibility for it. That was the last decade. Now, the pendulum has swung, and they can do whatever they want. Solidarity is giving the orders right now."

Poland's national revolt against three decades of misrule and repression has turned this Eastern European country into an ideological no man's land in the late spring days leading toward a climactic party congress next month. A surge of open nationalism, political activity and freedom of expression here makes it seem that the Iron Curtain has been parted at the Polish frontier.

Suddenly, the fear that has been the cement of Soviet rule in Eastern Europe has been turned. In Gdansk, the party and its police fear the people, not vice versa. In this Polish paradox, Communist Party officials are actually running for election to their jobs, in secret balloting, and they cannot yet know where this novel experience will lead.

Neither can the police, who would normally have yanked down the Solidarity banner at the shipyard. Nor can the censors, who normally would have halted the unvarnished reporting appearing in the Polish press and curbed the outpourings of Polish men and women who are excitedly telling each other what has happened to them and their country under 35 years of Communist rule.

Now, a reporter asks a Polish activist what help the United States could send and is told calmly, in the hearing of a dozen persons in a public place, "How about tanks?"

In this new Poland, it takes a well-publicized outburst by Communist Party leader Stanislaw Kania, backed by a nastily threatening letter from the Kremlin, to stir the old fear patterns and to give a little backbone to the police and censors. Kania's promise of a crackdown is not an end to this season of dissent but an acknowledgment of the enormous task his weakened government faces in trying to get the genie of democracy back into the bottle.

"We've started rooting for the government," said one Western journalist covering the upheaval. "You have to go with the underdog."

Seen from inside, Poland's revolt looks dramatically different than when it is viewed from Washington against the ever present backdrop of the Kremlin and the White House muttering menacingly at each other or at the Poles. Here, the periodic threats of global conflict are adjuncts to a subtle, cosmopolitan and highly risky internal power game that is not obeying traditional rules of such struggles.

"People talk about a power struggle, but power lies on the sidewalk and nobody picks it up," says Father Josef Tischner, an influential Roman Catholic theologian in Krakow. Andrzej Gwiazda, Solidarity's deputy leader, adds: "We're doing our best to convince the government it is a government. Maybe that is why we argue so much with it."

That sentiment contains the core of the paradox. Many opponents of the party fear that its government will simply disintegrate one day, provoking a Soviet invasion. Church leaders, Solidarity members and intellectuals who accept this view maneuver in silent complicity with party reformers to keep the government afloat long enough for it to be completely overhauled from the bottom.

Maneuvering in a completely different direction, of course, are the members of the old guard who are not in sympathy at all with the liberalism and patriotism that could cost them their power. It is difficult to judge their strength, particularly since they continue to shun contact with visiting journalists, but it is sufficient to worry Kania and Solidarity activists. "The party elections are so democratic that they trouble me," says Zbigniew Bujak of Solidarity. People who are losing power are our biggest opponents and they are not happy to be going."

Poles appear to be too busy trying to advance and understand the palpable transformation occurring within their society to keep asking themselves, as Westerners do constantly, if the Russians are going to invade. Instead, it is the profound human experience that is occurring within the Polish revolt that occupies Poles, and it requires the shouting of Kania and Moscow to jerk them back to the global dangers that fixate outsiders.

Two dominant impressions emerge from the comments of several score of Polish Communists Party officials, Solidarity members, journalists, steelworkers, farmers and others interviewed during a week in Warsaw, Gdansk and Krakow. These impressions suggest something of the texture of life in those cities today.

First is an almost total alienation of the population from its ruling class, expressed in the most open and visible way imaginable in a country subject to totalitarian rule for 35 years. A visit suggests that Gerald Ford was perhaps no more than premature in his 1976 presidential campaign debate judgment that Poland was not under Soviet domination.

The second is the consequent turning inward of that population on its own resources. While the ideological hurricanes sweep the ground around them, Poles evidence a gentle human concern in personal contacts, almost as if they are celebrating the collapse of barriers that ideology had sought to erect among them. The mood in the long lines that form in front of tobacco stores, food shops, gasoline stations and other places where consumer goods have become scarce is unfailingly calm and courteous.

The seemingly complete disgust of the people for the rulers, who are seen particularly in the last decade as having driven the country into national bankruptcy through miscalculations and a policy of lies and deception, powers the still evolving drive for democratic freedoms in a Poland that would remain in the Warsaw Pact and have a socialist

economy run for the first time for working-class interests.

Three often conflicting goals seem to be gathered in loose harness around the Polish revolt, at times racing in the same direction, but usually wildly pulling against each other and making the Polish revolt seem to outsiders to lurch from crisis to crisis without direction.

From Kania on down, the Poles want to keep the Soviets out. Secondly, many Poles seem convinced that the Communist Party here must be reformed through democratic procedures to regain a minimal measure of consent from the population to govern—a consent that does not exist today.

Equally urgently, moderates in Solidarity and in the party voice a need to work together to resolve the deepening economic disaster that Poland faces. But a major struggle still looms over the conditions of that cooperation, with Solidarity wanting to "control" the implementation of economic reform without taking the "coresponsibility" for reform, and sacrifices, as the party urges.

This much has been clear for several months. What has changed in recent days is that the most important struggle in Poland no longer pits Solidarity directly against the party. The confrontation has moved inside each organization as Solidarity and the Communists prepare for their separate national congresses and seek political programs that define their aims and, inevitable, who is in charge. With his twin warnings this month that the Soviets have drawn a line and that reforms must nonetheless continue, Kania has moved to contain both his party's ideological conservatives and grass-roots reformers.

Solidarity leader Lech Walesa, apparently against the advice of some of his closest aides, has chosen to stress moderation and responsible behavior to give Kania some breathing room. Each side gives the impression for the moment of waiting to see if the internal divisions will cause the other to crack, to fragment, to lose the cohesiveness that has brought power with it. In this view, the Soviets have also chosen to wait, while trying to influence this internal process through threats as an alternative to invasion.

The final outcome is uncertain, but almost all of those interviewed insisted on one point as being essential—something approaching the current level of freedom of expression and association must survive this process. They see no turning back without a bloody repression directed from Moscow. Even then, a number of Poles said, much of the spirit of their revolt would survive, and would haunt the Soviets throughout their empire. That, they added, is one reason they believe there will be no invasion.

They could be tragically wrong. But even so, the invading Soviets will find that the revolution they came to stop has in many ways already occurred, at least on a psychological level. Poles who have takeh part in that transformation are far more concerned that external events—such as belligerent posturing from a Reagan administration that suggests that events in Poland will lead to an end to communist rule in the Soviet Union or Soviet paranoia spurred by events in Afghanistan, China or elsewhere—will weigh far more in the invasion balance than the developments here this summer.

"Lines outside the shops in my neighborhood are good news. It means there is something in them to buy."—A Polish journalist.

The censor sat across the cocktail lounge table sipping a double Scotch, explaining why his government had failed and the revolt had begun.

Despite his liberal credentials and beliefs, Karol Macuzynski is an influential member of the parliamentary committee that is drafting a new censorship law that will determine the legal limits of what is said or printed in the "renewed" Poland. This law is crucial, he says, because the current turmoil is a crisis of faith.

It started, he said, with the sudden shifting of priorities, and of style, when fast-moving Edward Gierek took over from the stolid Wladyslaw Gomulka in 1970 and immediately set out to give cars and consumer goods to workers to ease the pressures that led to Gomulka's ouster.

"Gomulka said workers didn't need cars. But Gierek wanted to do everything, to please all the people that Gomulka was always quarreling with. He opened the gates for Poles to travel; he got the licenses, the technology and the bank loans from the West and he traveled all over the country to hold meetings."

"In the first five years, it was dynamic, and nobody asked where the money was going," Macuzynski said. "Then the growth stopped and the leadership couldn't admit it. The meetings became empty, part of a completely autocratic way of ruling, and the leaders became victims of their own propaganda, that propaganda of success. The unbearable part was hearing how well we were doing, when we knew how poorly we were doing."

The borrowed money continued to flood in from the West, however, and through mismanagement, corruption, or a combination of the two, Gierek's lieutenants invested enormous sums in industrial white elephants that produced worthless goods, put the country $27 billion in debt, polluted the countryside and eventually angered both workers and consumers.

Macuzynski maintains that his fellow members of the parliament and the party leadership accept the idea that free discussion and reporting are necessary to clean up this mess. The censorship law, which will restrict only national security, obscenity, war propaganda and religious intolerance, will "contain 90 percent of what Solidarity says it wants," he said.

"Polish radio and television news has become so good now that people have stopped listening to the Voice of America and Radio Free Europe. . . . We are transmitting plenary sessions of parliament live, 12 or 14 hours a day sometimes, and people are listening. It is extraordinary."

The journey actually begins in a physical no man's land, in the death strip that East German authorities have created between the two Berlins. The West Berlin taxi halts, the passenger unloads his baggage, clears the checkpoint and hauls his luggage into the strip, crowned by watchtowers, to wait for an Interflug airport bus. A West German businessman who has done this often in catching connecting flights to Moscow, Warsaw and Budapest, smiles at a question about Poland today.

"It is a mess," the businessman says.

"But a hopeful one, a promising one?" he is asked.

"My God, no. It is an awful mess. Before, we placed our orders with a factory manager and we got deliveries at the right price, on time, more or less. But now, you have to talk to three Solidarity guys, a priest, and the factory manager, who can't give you any commitment. Prices are already 20 percent up and they still want to raise them more. No, it's impossible," the businessman says of the turmoil unleashed by Walesa's attempt to reform Communism in Poland.

The quietest line in central Warsaw the next day twists along the front corridor of a drab, five-story office building converted a few weeks ago into an organizational headquarters for Solidarity. In the lobby of this visible symbol of Solidarity's new permanence and problems, volumes of poetry written by Poland's Nobel Prize winner, Czeslaw Milosz, have gone on sale.

Printed in Paris by emigree groups and still officially banned in Poland, the books disappear over the counter at an even faster clip than the stylish Solidarity badges, banners and T-shirts in vogue in Warsaw's streets today.

Solidarity is careful not to provoke the authorities by boasting of such sales. But neither are they clandestine. They are part of the breaking of a long silence by the uprising that has come to be known by, and protected by, the name Solidarity.

Factory worker Zbigniew Bujak describes it this way: "The school only let us know that there was knowledge that it was unable to convey. The press informed us every day that it was not telling us everything about ourselves."

At 27, Bujak has become one of the three or four top officials in Solidarity, who work quietly in Walesa's shadow to organize and shape a mass trade union out of the enthusiasm and support of the 10 to 12 million people—nearly a third of Poland's population—who have joined the movement.

These organizers wrestle with the internal dangers that success has brought to Solidarity, as Walesa is increasingly absorbed by national and international problems and as he works to defuse the situation by endorsing Kania's calls for moderation. Bujak and the others remain a primary target of Kania's saber rattling because of the differences among them over Solidarity's strategy toward the party and the government.

Those differences have given the party leadership a chance to fight back, to heighten the chances of fragmentation within Solidarity by convincing Polish public opinion that Solidarity has split into clear camps of "moderates" and "radicals." In this two-prong strategy, the government would blame economic chaos on the radicals and seek accommodation with the moderates to avoid new confrontation, especially before the party congress convenes July 14.

The earnest, muscular Bujak appears to have come down with Walesa, on the side of trusting Kania and a new party leadership to deliver on the promises already gained from confrontation. He broods that Solidarity may have gained too much too fast.

"We are amateurs at this," he says in a second-floor office as he sifts with a slightly overwhelmed air, through organizational reports from factories. "We need professional organization to handle 10 million people and the trust they have put in our union after the failures of other institutions for the past 35 years. We should have had the structure first so we could welcome members in, where we were ready, but it happened the other way."

Bujak's own story illustrates the depth of the feeling that helped Solidarity grow so spectacularly so quickly. In a self-education group that he set up at the Ursus tractor factory outside Warsaw, he had drawn up a three-to-five year plan to organize an independent union. When news of the Gdansk strikes reached the factory, Bujak jumped onto a chair and persuaded thousands of others to support Walesa's group.

An hour later, two blocks away, Andrzej Gwiazda takes two packets of sugar out of a small carrying case as he orders coffee and sits down, his back to the wall of the crowded coffee house. A childhood in a Russian prison camp in World War II has taught him "not to be afraid of polar bears" and to be prepared for anything. Solidarity's deputy leader says with a whimsical laugh. Then

the waitress tells him that today they have run out of coffee, too. He settles for lemonade.

Gwiazda is the engineer of Solidarity. He speaks rapidly and elliptically, his voice barely carrying above the clatter of passing streetcars and strains of the U.S. rock group Blondie's "Heart of Glass" being played on the coffee house's stereo system. His manner suggests the long career of an underground union activist somewhat uncomfortable with being totally above ground now.

"In March, the Politburo realized that Solidarity was a permanent element that could not be broken down overnight," he says, pausing constantly during the discussion to answer other questions rained down upon him by knots of union workers who approach him almost reverentially. "So they have changed tactics, trying to weaken and to civilize us in their own way. They are trying to blame food shortages on Solidarity. They manipulate the crime statistics upward and blame that on Solidarity. After we agree to freeze our wage demands, they offer increases to party unions. What we face now is a well-prepared and long-range action against Solidarity. And we must respond."

Solidarity "should do nothing to make this party trustworthy," he continues. "The elections [to the party congress] will probably not assure good results. The methods may be democratic, but the candidates are not."

It is on these differences that Kania and ultimately the Kremlin must pin their hopes for a Solidarity that can be tamed, or alternatively, one whose failures can be used as a pretext for a crackdown that would gain some popular support. But these differences may in the end be overshadowed by the impressive agreement among men like Bujak and Gwiazda on the shape of a workable future for Poland, which centers on the acceptance of Solidarity's plan for workers' councils that will overhaul and run the major state economic activities. Such councils could then get the population to accept the sacrifices that will be necessary to get the economy running again, they maintain.

It is the week that the government has permitted Lech Walesa to go to Geneva to be Poland's primary speaker at the International Labor Organization. There is evident pride in Walesa's entourage over his performance. But there is also concern that, as one of the aides closest to Solidarity's leader puts it, "the government has suddenly become intelligent enough to try to make life very comfortable for us instead of very difficult. Our credibility is what makes us a national force, and we must protect it against such a trap."

"Several times a day now I have to remind myself that I am now carrying on real discussions with people, not just giving orders. It is part of the adjustment we all have to go through in this new environment. I will learn that, or I will have to go."

Halfway up the party ladder in terms of age and seniority, Tadeusz Zareba admits to having had difficulty in adjusting to "this fascination with democracy" that has been sweeping Poland since August. He is one of the Central Committee's top staff members in charge of the volatile area of press, radio and television and he has come through the upheaval shocked but with a chance of surviving. Up to a point, he favors what has happened to the party he has belonged to for 31 years.

"In this country now, the authorities will have to get used to spending so much of their time answering criticism," said Zareba, a short, compact man with gray hair cropped in a crew cut. "Critizing the government, even without basis at times, has become a lasting element of Polish political life. It is not the most rational method of spending your time, or ruling the country, but it is necessary after this eruption of democracy."

Zareba believes that the elections now under way are reviving a party that "had become so passive before the total criticism that blamed the entire party for everything." The party is rebuilding itself from the base level through democratic means that were not used much before last August. Reasonable people in Solidarity know they need a strong party trusted by the people. "We are not fighting Solidarity now. We want to influence the character of Solidarity. It should be a constructive element in socialist Poland."

Did the party official see any circumstance that could lead to a Soviet invasion?

"Nothing short of a civil war here in Poland," he said. "I don't know what the authorities would do in that event. And I don't foresee any such possibility.

"But it is important to remember that Poland is not an island. Geographically and politically, we are part of a given political system and a military alliance. This system is the base of our security, our integrity as a state. We regained our western territories [from Germany] as part of this system, and that is a guarantee of Poland as it is within its present borders. . . . Poland is not only part of the socialist system, but an important part. What happens here cannot be a neutral thing."

Question to a Solidarity activist: "Can you trust the Army?"

Answer: "We trust the soldiers."

When Communist Party officials talk about "antisocialist elements" in Poland, they usually have in mind Jacek Kuron and his fellow intellectuals in the Committee for Social Self-Defense, known as KOR. During the past two decades, Kuron has spent six years in prison and has been harassed repeatedly by police when out of jail because of his public campaign for democratic freedoms.

But the party is not likely to be overjoyed to hear that Kuron now says KOR "has finished its existence" and gone out of business as of Sept. 1. The reason is that KOR has moved into Solidarity and its members have become intellectual and spiritual advisers to the union. Kuron was last arrested in January and ordered on his release to report to the prosecutor's office twice a week. He has not gone to the office yet and the police seem to have dropped their usually constant surveillance of him.

"The entire society of Poland has moved within Solidarity," Kuron said. "So KOR finished its existence on Sept. 1, when the government recognized Solidarity as a legal movement. We have not acted as KOR since. You have to realize that we were never 'dissidents' since we were always part of the society. We weren't underground; we operated openly and as part of a society. When there were arrests, there was turmoil and eventually we were released."

Kuron is helping Solidarity shape a program that would lead to reforms in political institutions in Poland, but is not ready to talk about it specifically before the Solidarity congress.

"The important struggle now is for concept, for system, for the program that will solve our problems," he said. "That is occurring both within the party and within Solidarity right now."

He is fairly sure this debate and its results will not trigger Soviet intervention beyond the current psychological war directed at the ruling Communist Party Politburo and Solidarity.

"We will have a party and a Solidarity that are both accepted by the society, that both work and that can give guarantees to the Soviet Union not to invade. I'm sure of that," he said.

"What I remember, though, is a story about the man who thought he was a mouse. After six months, a psychiatrist convinced him that he was not a mouse. And as he goes to open the door he says to himself, 'I know that I'm not a mouse, and the doctor knows I'm not a mouse. I sure hope that cat across the street knows it.' "

Behind the roar of the ideological battles and the world power games, much of what is happening in Poland is recognizable as a struggle of generations, a thrusting for power and position by younger people who have, until now, seen the roads to these goals blocked by an ossified bureaucracy that rewarded mediocrity and longevity, as well as blind obedience to the party. In the party, in Solidarity and within the powerful Roman Catholic Church here, a new generation sees national reform as its opportunity to participate in shaping the future.

"We knew immediately that this was our last chance," said Mieczyslaw Gil, a steelworker in Krakow who has just been elected head of the regional Solidarity organization. "I am 37. I knew that if Solidarity didn't work, I would never have another chance to help make a different Poland. We had become sickened by the enormous waste in the system, which set prices of our plant's output only by cost. Plant managers sent by the party, sent in a briefcase we would say, got bonuses if they could push costs up, even beyond the point where the goods could sell."

"We are working to make sure this plant belongs to the nation, and not to the state," said Stanislaw Handzlik, Gil's deputy at the Nova Huta steelworks. "The workers will be managing their own enterprises and make sure that new ideas and methods are implemented. Until now, we have had a shortage of wise people, of people put in power because of intellectual ability instead of ideological acceptability."

In the party, this year's upheaval has also emboldened those few younger party officials who had already been working for reform from within. The prospect of fair elections has suddenly turned risk-taking into an acceptable, indeed necessary, part of Communist rule here.

Jan Broniek began campaigning for direct elections within the party before Solidarity forced the issue last year. He is one of two party secretaries reelected this month to the seven-member district committee in Krakow. Of the 433 delegates elected to the district conference, he estimated that only 30 percent had been elected to a party office before this year.

The five party secretaries not reelected "will have to find other jobs now, I guess," Broniek said in a small conference room at the party's headquarters in Krakow. "Bad decisions on investments in tractors our farmers can't use, color television factories that produce too costly goods, and trucks that are not suited for our roads have created an atmosphere in which changes have to be made."

In Gdansk, where it all started, Jan Labecki, the 37-year-old first secretary in the shipyard, easily won reelection to the Central Committee, a body he reportedly shocked last year by confronting it with what were to become Solidarity's strike demands and endorsing them.

"New faces mean new credibility for the party," Labecki said, "But a simple exchange of leadership is not enough. The party has to get rid of the notion that it has the exclusive recipe for wisdom and efficiency and

has to listen to the people much more. We can have a democracy that would be competitive with Western democracies, and that will be built on true socialism, too."

Asked how the form of Communist rule in this kind of Poland would differ from that of the Soviet Union, Labecki replied:

"It is like taking a garment from an older brother. You can get in it, but the sleeves are too short, the pants are too long. If you want to take it as your own, you have to trim it here and let it out there. We don't have communism, we have socialism. . . . A new Polish history is being created now. But we take into account our address and the address of our neighbors. We assure the security of the nation."

As archbishop of Krakow before becoming Pope John Paul II, Karol Wojtyla left a strong imprint on Poland. His friend, Father Tischner, believes that Wojtyla in effect paved the way for what has happened here since August by bringing a new public sense of unity and pride to the Polish population, particularly through his 1979 visit and by opening churches in Krakow to study groups that helped identify the government's shortcomings.

"Polish workers have been victims of exploitation within socialism, a new form of exploitation of man by man, a form perhaps unknown in capitalist countries," Tischner said. "It can be called labor without sense, people working a lot but their labor losing all sense to it when the goods they produce cannot be used, cannot be sold for more than they cost to produce. When work becomes senseless, the only sensible behavior is to strike. That is what happened and Marxism lost its monopoly on ideological interpretation of life in this country.

"Now we must provide a new morality, a new ethical practice that will in turn create its own religious and political experiences. But we must stay in the realm of practice. Czechoslovakia made the mistake of trying to invent a new socialism, and the Soviet Union reacted. You have to live within the framework of the illusion that socialism with a human face already exists in the Soviet Union, that you are not going to invent something that already exists.

"We are sentenced to be ruled by the Communist Party," he said with a smile. "Some optimists think it can be a party that will have the role of the British queen in our new arrangement. I am not that optimistic, but the party may know now that it does not have to rule in every area of our society. Maybe the party knows now that it can trust the nation."●

FTC INTERVENOR FUNDING

● Mr. McCLURE. Mr. President, in the past several years we have seen many problems and questionable practices arise concerning the public participation provision of the Federal Trade Commission Improvements Act of 1975—better known as intervenor funding. This provision allows the FTC to provide reimbursement for the costs of participating in its hearings to groups who have a interest in the proceedings but cannot otherwise afford to participate, and it gives the Commission great latitude in determining on whom to bestow this funding. This amendment was added in the House-Senate conference committee, thus without hearings or floor debate.

A recent article by Morgan Norval published in Reason magazine presents striking examples of how this well-intentioned idea has deteriorated into a Government subsidy program for various antibusiness, proregulation public interest groups. Congress, as the creator of such a bureaucratic monster, must awaken itself to the present state of this program and its ominous implications for America's industry.

The compensation provision states that intervenor funding is to be used to assure a fair determination of the rulemaking process. However, in seven major trade regulation rule proceedings between November 1978 and May 1979, the FTC funded only the advocates of the proposed rule. In addition, a mere eight groups received two-thirds of all public participation moneys doled out by the Commission in 1979.

The Federal funding of these "ideological soul-mates" of the FTC has been a major cause of the excessive regulation produced by the Commission recently. Small business, the most common target of FTC activity, is often handcuffed by lengthy and confusing hearing reports which average 25,000 pages. Even with large corporations who hire teams of lawyers for this purpose, the costs are passed on to the consumers in the form of higher prices. Thus, we Americans are hit doubly hard—first by having to finance the intervenors with our tax money and second by having to pay higher prices for our goods at the stores.

As the Senator from Wyoming, the Honorable ALAN SIMPSON, said in 1979:

In a free society it is intolerable that the taxpayer should be required to finance private lobbying groups, who often take positions opposed by a vast majority of our citizens.

I believe that it is time for this body to take note of these activities and take appropriate action as soon as possible. I ask that this article be printed in the RECORD.

The article follows:

[From Reason Magazine, July 1981]

KEPT CRITICS

(By Morgan Norval)

During the past 3 years the Federal Trade Commission has been doling out hundreds of thousands of dollars to various self-proclaimed public interest groups who then appear before the FTC Commissioners and commend them and their latest regulatory scheme as being a remarkable effort by the Commission to protect the public interest.

In reality, I have found there is far more personal interest and far less "public interest" in the administration of this program than is permissible under the statutes that control the FTC. . . .—Senator ALAN SIMPSON (R-Wyo.), CONGRESSIONAL RECORD, Feb. 7, 1980.

Since the Federal Trade Commission was established in 1914, one of its primary responsibilities has been to investigate complaints involving allegedly fraudulent or deceptive business practices. For the first 60 years of its life, the FTC handled such matters on a case-by-case basis. Standard agency practice was to investigate a complaint against a specific business firm and, if warranted by the facts, take action against the offending firm.

Often the action took the form of a directive to the firm not to engage in the questionable business practices in its future business dealings. That is, the FTC functioned essentially as a police force pursuing individual wrongdoers and not as a quasi-legislative body issuing rules and regulations requiring compliance from all the businesses within an industry, whether or not they had ever engaged in questionable practices.

All this changed dramatically a few years ago with the enactment of the Federal Trade Commission Improvements Act of 1975, more commonly known as the Magnuson-Moss Act. Now the FTC can and does issue sweeping rules and regulations that apply industrywide and not just to specific firms engaged in "unfair or deceptive" practices. And what is an unfair practice? Under Magnuson-Moss, it is whatever the FTC finds or decides is unfair practice. Unfair practice is in the eye of the beholder.

Prior to Magnuson-Moss, the FTC had to show that the questionable practices it was investigating were actually "in commerce," or being done. Magnuson-Moss, however, allows the FTC to act if it thinks some business practices would "affect commerce." That opened up a whole new ball game. As FTC Commissioner Paul Rand Dixon put it, "There isn't anything you can do in the United States today that doesn't affect commerce, so we have been moved right down to every act in every state in every city."

Tacked onto this awesome grant of authority in 1975 was an innocent-sounding little amendment—the public participation amendment. Like the proverbial road to hell, it was paved with good intentions. The amendment authorized the FTC to "provide compensation for reasonable attorney's fees, expert witness fees, and other costs of participating" in the FTC's trade regulation rulemaking proceedings. The rationale: to open up FTC rulemaking to the public by reimbursing the expenses of groups that otherwise could not afford to participate.

The legislative history of the public participation provision—often called "intervenor funding"—illustrates how a lot of laws end up on the books. The amendment was added to the bill in the House-Senate conference committee. As a result, there were no hearings on the matter and no floor debates in either house. It was simply inserted into the conference report and became law when Congress passed and President Ford signed the act in 1975.

DISCRETIONARY FUNDING

Who gets to take part in FTC proceedings under this program? The exact language of the intervenor funding amendment gives the FTC a good deal of discretion in administering the program. The compensation provision states:

"The Commission may, pursuant to rules prescribed by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of participating in a rulemaking proceeding under this section to any person (A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole, and (B) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceedings."

With this wording, Congress granted the FTC considerable freedom to choose those on whom to bestow its largess. Naturally, the temptation looms large to parcel out intervenor funds to favored groups and individuals.

Would the FTC succumb to the danger warned of by John W. Gardner, former head of Common Cause? "Public participation proposes direct assistance," noted Gardner. If the concept of conflict-of-interest means anything, then there is danger in potential critics of an agency being financed by the very agency they criticize. We could easily create a class of kept critics, and damage the future of an independent public interest movement."

Like Adam in the Garden of Eden, the agency has yielded to temptation. The history of the FTC's intervenor funding program—which has so far handed out nearly $2 million—is one of helping its friends and ignoring its adversaries. The result has been an almost total anti-business, pro-regulation bias in the allocation of what are, after all, taxpayers' funds.

In testimony before Congress in 1979, it was brought out that supporters of more regulation of business received 95 percent of the intervenor funds distributed by the FTC between November 1978 and May 1979. And in seven major trade regulation rule proceedings during that time, the commission funded only advocates of the proposed rule. The subjects of those proceedings and the grants involved were:

Children's advertising (kid/vid)—18 grants totaling over $133,000, including more than $32,000 to the group that originally petitioned the FTC to initiate the rulemaking (Action for Children's Television/Center for Science in the Public Interest);

Used cars—two grants totaling over $17,000;

Food advertising—one grant, over $3,000;

Over-the-counter drugs—two grants, over $7,500;

Antacids—four grants, over $26,000;

Insulation—five grants, over $14,800;

Funerals—eight grants, over $18,500.

When it comes to receiving FTC money, it seems that friends make out a lot better than enemies.

MUTUAL BENEFITS

The FTC's behavior is not that difficult to understand, of course. Despite what many people think, bureaucrats are human beings, so they generally make decisions based on what will benefit them the most. In this respect they are no different from ordinary consumers and business people.

Like those who toil in the private sector, bureaucrats are interested primarily in enhancing their salaries, working conditions, power over others, reputations, and prestige. Thus, they can be expected to be keenly interested in possibilities for action that increase their chances for promotion, raises, and growing influence.

Nationally, when the passage of Magnuson-Moss expanded the jurisdictional base of the FTC's power, the bureaucrats were not hesitant to move into the new territory. Adding to the momentum was the Carter administration's infusion of "consumer activists" into the supper levels of the bureaucracy. At the top, of course, was Michael Pertschuk, appointed FTC chairman in 1977. Pertschuk had been chief counsel to the Senate Commerce Committee when it was headed by Sen. Warren G. Magnuson, a favorite of the consumer movement. Pertschuk was the chief architect of many federal consumer laws, including the Magnuson-Moss Act.

Pertschuk's appointment delighted the consumer movement, for now they had one of theirs on the inside. The prospects seemed bright for advancing consumerism. The FTC and the consumer movement could work together for the mutual benefit of both parties. The agency would gain more bureaucratic turf by issuing new trade regulation rules under the expanded powers granted it by Magnuson-Moss. And the consumer groups would gain in prestige as regulations advocated by them were adopted by the FTC.

This symbiotic relationship was enhanced by the new ace up the FTC's sleeve—the public participation funding program. The FTC now had at its disposal a device whereby it could reward the very consumer groups that would be most likely to support its proposed new rules and regulations.

This is precisely what happened. The FTC has been very generous to a select few groups that share its penchant for more and more governmental regulation. The record shows that eight favorite groups received two-thirds of all public participation funds doled out by the FTC in 1979:

Center for Public Representation—three grants for over $16,700 to testify in two proceedings, children's advertising (kid/vid) and thermal insulation;

Consumers Union/Committee for Children's Television—three grants totaling over $39,000 on the kid/vid rule;

Americans for Democratic Action—over $31,400 via five grants to support four rulemaking efforts (eyeglasses, over-the-counter drugs, health spas, and the funeral industry);

Community Nutrition Institute—three grants for the kid/vid rule for a total of $33,368;

National Consumers League—over $28,000 for two proceedings (care labeling and food advertising);

Action for Children's Television/Center for Science in the Public Interest—over $32,700 from four grants for the kid/vid rule;

Council on Children, Media, and Merchandising—over $31,500 from five grants for three rulemaking proceedings (antacids, food advertising, and kid/vid);

Center for Auto Safety—three grants for over $18,000 to support two proposed rules (mobile homes and used cars).

PAYING FOR EXPERTISE?

Aside from the incestuousness of this relationship between the FTC and its paid supporters, there are other questionable features of the intervenor program. Was this small corps of ideological soul-mates even qualified to speak out on particular rules under consideration by the FTC.

Take, for example, the Council on Children, Media, and Merchandising, an organization that seemed to depend on the bounty of the FTC for its sustenance. It consisted of a single individual and had no dues-paying members. But from 1976 through the middle of May 1979, this "organization" received $185,839 in FTC intervenor funding to participate in rulemaking proceedings on antacids, food advertising, over-the-counter drugs, and children's TV advertising.

The Council's founder and principal member, Robert Choate, was astute enough to take advantage of the legal plum handed to him by the FTC. Choate understands how the game is played in Washington: "Washington is an organization town. The first question asked of one going to his or her government with other than a purely personal matter is 'who are you with?'" So Choate created an organization to be with, consisting of himself and 13 others listed on a letterhead—an "ad hoc group," he called it in a letter to the FTC.

So a clever Washington entrepreneur can create a paper organization. To qualify, however, for a large grant for extensive participation in FTC rulemaking proceedings, it would seem that an organization would have to have sufficient expertise. In fact, evidence shows that small groups that receive intervenor funding often end up farming out most of its participation functions to persons or organizations not eligible themselves for compensation—outside law firms, survey research companies, or individual experts-for-hire.

The Community Nutrition Institute, for example, received over $40,000 from the FTC to participate in the children's TV advertising proceedings. It was small—no paid members—and turned around and hired Opinion Research Corporation of New Jersey to conduct a personal opinion survey. The presiding officer in these FTC proceedings cited serious flaws and discrepancies in the survey, however. Likewise, the small San Francisco-based Safe Food Institute received over $12,000 to conduct a survey that was later found by the FTC not to be valid.

The problem with consumer groups as sources of expertise has been pointed out by Stephen Breyer in the Harvard Law Review. "Consumer groups, often in an adversary posture toward industry, tend to have the least experience of all," he noted. "Though they may appeal to competing elements within industry for help, they frequently are dependent upon the agency and outside experts for information."

And not just outside experts. According to C. C. Clinkscales, director of the National Alliance of Senior Citizens, proponents of the FTC's hearing aid rule were reduced to advertising for witnesses to testify before FTC hearings. In cities where the hearings were scheduled, they took out newspaper ads reading: "If you bought a hearing aid in the last 30 days, you were probably cheated. The U.S. Government wants to know about it." The National Council of Senior Citizens, sponsor of this ad, was given $46,734 in intervenor funding by the FTC.

MONIED INTERVENORS

Other groups receiving intervenor funds have been large organizations with substantial budgets. They could hardly be considered poor and in need of taxpayers' money to participate in the FTC's rulemaking proceedings.

Americans for Democratic Action, for example, has been awarded $177,000 in intervenor funding to participate in five separate proceedings. This group has a national membership in the neighborhood of 75,000 people and an annual budget exceeding $1.6 million.

The Sierra Club shared an award of $28,241 with four other environmental groups to participate in a rulemaking activity (the proceedings on thermal insulation). It has around 183,000 dues-paying members who come up with $25 a year. This gives the Sierra Club financial resources of at least $4.5 million annually.

The Environmental Defense Fund, one of the groups sharing the insulation grant with the Sierra Club, is able to maintain offices in Washington, D.C., New York City, Denver, and Berkeley, California. It takes a lot of money to keep four offices open in four major cities. Yet the FTC felt this organization needed taxpayers' funds to participate in its rulemaking process.

Consumers Union, another recipient of intervenor funding, has an operating budget of nearly $24 million. It has a staff of almost 400 and publishes the magazine Consumer Reports, with a circulation exceeding 2 million. This needy organization shared with another group $73,900 from the FTC just to participate in the children's advertising proceeding.

How can an organization with that amount of revenue be qualified to receive these funds? It is quite easy. Mark

Silvergelb, director of CU's Washington office, told the Senate Subcommittee for Consumers in September 1979. "Conscribers $23 million dollars primarily to support participation in either Federal Trade Commission rulemaking or any other forum." He went on to point out that Consumers Union's primary function is to publish its magazine, and it only devotes a small part of its operating budget to advocacy activities. "If you divert more than what is financially sound to nonrevenue producing activities [appearing before the FTC], you eventually reduce your ability to carry on both kinds of activities, revenue and nonrevenue producing, and you simply waste away the base of the organization's financial abilities."

Mr. Silvergelb is onto something, only he is probably not aware of its implications. If Consumers Union is concerned about diverting money into, as he calls them, "nonrevenue producing activities," what about the businesses that stand to be directly affected by the FTC's proposed rules? Won't they, out of necessity, maybe even to stay in business, have to divert money into nonrevenue producing activities—such as taking part in FTC rulemaking proceedings? If Mr. Silvergelb's group can't divert funds from Consumers Union without affecting its program, might not the businesses facing potentially devastating FTC regulation be up against the same problem?

WHAT THE BILL COMES TO

What has all this activity actually cost? During its first three years, the FTC intervenor funding program soaked up $1.8 million in taxpayers' money. The program virtually ground to a halt in mid-1979, as Congress kept the FTC on a short budgetary leash during nearly a year of grueling oversight hearings. The tough hearings eventually lead to a rather mild FTC reform bill that slapped the agency's wrists for regulatory excess over such matters as the kid/vid rule but left its basic powers unscathed.

Since that time, however, few new trade regulation rules have reached the public participation stage. As a result, additional intervenor funding since mid-1979 has added up to only $187,000 so far, making the total expenditure since the program's inception just under $2 million.

This figure may seem like a drop in the bucket when compared with the billions our government seems determined to spend on all sorts of schemes and programs. Yet, the $2 million is just one part of existing and envisioned intervenor funding spread throughout the government (see box, p. 41). In the 96th Congress alone, nearly 50 bills to establish intervenor programs were introduced. Although one of its champions—Sen. John Culver (D-Ia.)—was retired to private life last November by his constituents, the concept lives on. Its new hero is Sen. Edward Kennedy (D-Mass.), who has been active in trying to create a government-wide intervenor funding program since 1976.

In addition to the seemingly small amount spent so far on intervenor funding, its end product, rules regulating business, can have tremendous cost impact upon the consumers of this nation. Increased business costs resulting from the rules are passed on to the consumer in the form of higher prices for goods and services.

Since consumers are also taxpayers, they end up getting stuck with both tabs—the original (tax) cost of the governmental process and the increase in the costs of goods and services resulting from the action of the government. Joyce A. Legg, a taxpaying consumer from Virginia hit the nail squarely on the head when she told Rep. Herb Harris (D-Va.) in a letter that, "as a consumer, I have not been fleeced one tenth as much as I have as a taxpayer."

EXPENSIVE RULES

A good example of how FTC rules can raise costs to the consumer was its trade regulation rule "Labeling and Advertising of Home Insulation," the so-called R-value Rule announced in August 1979. The purpose of the rule was to mandate the disclosure of insulation capacity in labeling, advertising, and promoting home insulation products. The R-value is supposed to be a scientific measurement of thermal resistivity—the higher the R-value, the greater the insulation power.

There was one fly in the ointment, however. Testing to determine R-values is a complicated process overseen by the National Bureau of Standards (NBS) and the American Society of Testing and Materials (ASTM). The science of testing various thicknesses of the many and varied types of insulating products is still in its infancy. Just before promulgating its rule, the FTC switched from one R-value test to another and imposed new mandatory testing requirements. Until recently, meeting these changed requirements was beyond the capability of existing testing equipment and methods, a point made to the FTC by the NBS, the ASTM, the Department of Energy, and other experts in the field of thermal-insulation testing.

The FTC turned a deaf ear to these protests and proceeded with the rule. If it were to go into effect without proper equipment and standards, warned Stanley L. Matthews, president of the Mineral Insulation Manufacturers Association, it "will increase the cost to consumers of insulation by as much as $90 million."

Fortunately, the 10th Circuit Court of Appeals put a hold on the FTC's rule; Congress reaffirmed that hold in its FTC reform bill. The National Bureau of Standards hopes to have standard calibrated equipment and samples available sometime this year.

In other recent action the FTC is proposing a set of rules requiring new warranties on the sale of mobile homes. "This is a classic case of overregulation," says Walter L. Benning, president of the Manufactured Housing Institute. "Every one of our homes must be inspected by agents from the Department of Housing and Urban Development before they can be sold. No other house in America must go through such rigorous inspection." The FTC estimates that its rules would increase the cost of a mobile home by only $100–$125, but Benning figures it would be more like $2,000 per home.

The cost to the consumer of the FTC's originally proposed used car rule requiring dealers to inspect 14 systems of the automobile and to disclose the results on a window sticker ("OK," "Not OK," or "We Don't Know") was pegged, during Senate testimony, at between $1 billion and $10 billion, depending on how the cost of the inspection and any subsequent repairs is calculated. Evidently, the cost seemed too high even to the FTC, for in April 1981 it approved only a twice watered-down rule requiring used car dealers to put in writing whatever warranties are offered and to disclose "major defects."

Attempts by the FTC to break up the cereal industry would, if successful, have serious economic consequences. According to Phil Leonard, United Rubber Workers Political Education Director, it "will mean over 2,600 jobs will be lost" in the cereal industry alone. In addition, Mr. Leonard pointed out, if the FTC proceeded with its proposal to ban children's advertising on TV, jobs in the toy industry would be lost.

THE COST OF THREATS

Mr. Leonard's latter fear is moot because in its 1980 FTC reform bill Congress forbade the FTC from issuing any ban on children's television advertising. But the mere announcement by the FTC that it is considering a rule can have detrimental effects upon the chosen industry.

The agency has proposed a rule that would allow health club members the right to cancel their membership contracts, for any reason (or no reason at all), at any time during the life of the contract. This rule would have disastrous effects upon the health spa industry because its ability to raise both long- and short-term capital depends upon pledging accounts receivable, in the form of membership contracts, to banks and other lenders for credit. The FTC's proposed rule would, in effect, make a health club contract a useless, non-binding, one-party document that no lending institute would accept as collateral.

According to the September 1979 Senate testimony of Richard Wood, president of the Golden Life Physical Fitness Centers, when the FTC announced its proposed rules, "Abruptly, the financing of my Odessa [Texas] center was withdrawn, leaving me with no source of short-term working capital or expansion funds. Despite a delinquency rate of only two percent, I could not convince bankers or finance company executives to reinstate my financing. They were frightened by the severe nature of the FTC rule which calls for giving consumers the unilateral right to cancel their retail installment agreement with me at any time for any or no reason."

Wood was forced to ask prospective consumers to pay in advance for the entire term of their contracts. As a result, business at Wood's Odessa facility has dropped 50 percent and it has not shown a profit. The Texas gym is being carried by Wood's other clubs in New Mexico.

Dr. Reynold Sachs, a professor of managerial economics at American University in Washington, D.C., testified that "the proposed trade regulation rule would make it all but impossible for the typical health spa operator to obtain external debt financing . . . [and would] lead to an increase in the number and frequency of bankruptcies and insolvencies. . . . consumer prices would increase by an estimated 100 to 200 percent."

HITTING THE LITTLE GUYS

Other direct costs to business are more difficult to measure. For example, consider the cost involved in the sheer amount of paperwork involved in FTC rulemaking proceedings. The average record of a proceeding is 25,000 pages; some exceed 50,000 pages.

How can a businessman, especially a small businessman, wade through that morass of paperwork and still devote sufficient time to his business? Clearly, it is beyond the means of the average business owner. And although large corporations can hire teams of lawyers to do the job, such expenses are passed on to the consumer.

It is not the large corporation, however, that is the typical target of FTC activity. The FTC is a bureaucracy employing 700 lawyers that seems to thrive on hassling the small businessman. As Dr. F. M. Scherer, former director of the FTC's Bureau of Economics, told a 1976 hearing before the House Small Business Subcommittee: "What I have learned since joining the Commission staff is that many attorneys measure their own success in terms of the number of complaints brought and settlements won. In the absence of broader policy guidance, therefore, the typical attorney shies away from a complex, long, uncertain legal contest with well-represented giant corporations and tries to build up a portfolio emphasizing small, easy-to-win cases. The net result of these broad propensities is that it is the little guys, not the giants who dominate our manufacturing and trade industries, who typically get sued."

Among the indirect costs of FTC rulemaking is the time lost by businesses in trying to comprehend the proposed FTC action,

fighting it, or both. Any time spent on these activities is time not spent on providing goods or services desired by consumers, which means higher prices for the ones that are provided.

The heavy-handed intrusion of the FTC into the affairs of business also generates a climate of fear. Zealous defenders of the regulatory agencies will applaud this, saying the businessman will be too scared to try any shady tactics. (This is a dubious assertion because anyone who is bent on fleecing consumers is not likely to be overly deterred, if at all, by some FTC regulation.) But the other side of the coin is that the climate of fear also makes entrepreneurs have second thoughts before developing and introducing new goods and services that may be better and cheaper than those currently on the market.

CURBING THE FTC

The FTC's use of public funds to hire advocates of its position on proposed industry-wide rules is a gross abuse of its powers and of the taxpayers' money. As Senator Simpson told his colleagues in 1979: "In a free society it is intolerable that the taxpayer should be required to finance private lobbying groups, who often take positions opposed by a vast majority of our citizens."

Unfortunately, Simpson's words had little effect upon his Senate colleagues last year when they passed their weak-kneed FTC reform bill. When they finally approved the agency's budget the intervenor funding program was continued, with but two restrictions: the amount that any one group can be awarded is now limited to $50,000, and 50 percent of the grant funding must now go to business interests.

The reform bill took several other steps to restrain the FTC, namely allowing new FTC regulations to be vetoed by a vote of both houses of Congress and restricting somewhat the proposed FTC regulations on children's TV advertising, voluntary codes and standards, trademarks, cooperatives, life insurance, and funeral homes. In other words, the big boys with the political clout won a reprieve from the FTC. But Congress left the small businessman still exposed to the agency's awesome powers.

The FTC intends to use that power. After the legislation was signed into law, Chairman Michael Pertschuk told the Associated Press, "We intend to go ahead with everything Congress hasn't specifically stopped us from going ahead with." In spite of the change of administrations, the FTC is still peopled by those who have admitted to carrying out a vendetta against whole industries. They are ready, willing, and able to dream up new rules to regulate business, as Pertschuk has admitted. They can still dole out money, although now on a reduced basis, to hire groups to speak for their proposed rules and regulations.

Last February the Reagan administration sent shock waves through the Federal Trade Commission. The Office of Management and Budget recommended that the FTC's current fiscal 1981 budget be cut by 13 percent and its 1982 budget by 24 percent. OMB also urged that the intervenor funding program be abolished.

The latter, however, is a creature of the Congress. Congress conceived intervenor funding, gave birth to it, annually nourishes it with taxpayers' funds, and regularly contemplates cloning it for other federal agencies. It is up to Congress, not the OMB, to get rid of the little monster it created.

The time is rapidly approaching when, according to former Atty. Gen. Griffin Bell, "if the Republic is to remain viable, we must find ways to curb, and then to reduce, this government by bureaucracy." A good place to start would be to abolish the practice of intervenor funding.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have certain housekeeping details to tend to. I believe these matters are routine.

May I inquire of the minority leader? During this morning I put a question to the minority leader on whether or not he might be in a position to agree to a request that the Senate turn to the consideration of the tax bill at 11 a.m. tomorrow. Since that time, I have found that certain Senators require special orders.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, let me put the request at this time.

I ask unanimous consent that, after the recognition of the two leaders under the standing order on tomorrow, the Senator from Vermont (Mr. LEAHY), the Senator from Utah (Mr. HATCH), and the Senator from Virginia (Mr. WARNER) each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BAKER. Mr. President, I am prepared to change the convening order from 10:30 a.m. tomorrow to 9:45 a.m. tomorrow in order to accommodate these special orders and still permit the opportunity to go to the tax bill at 11 o'clock.

Might I inquire of the minority leader if he is in a position now to agree to a request that the Senate proceed to the consideration of the tax bill at 11 o'clock on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. Mr. President, I make that request. I request that the time for the convening of the Senate be changed to 9:45 a.m. on tomorrow; that at 11 a.m. on tomorrow the Senate proceed to the consideration of the tax bill, House Joint Resolution 266.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND TO PROCEED TO CONSIDERATION OF HOUSE JOINT RESOLUTION 266 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, and after the recognition of the three Senators with special orders which have been provided for, there be a period for the transaction of routine morning business to extend until the hour of 11 a.m., during which Senators may speak for not more than 5 minutes each.

Mr. President, I amend the request only to the extent that I ask that the Senate proceed to the consideration of the tax bill at 10:40 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, in just a moment I will ask that the Senate recess over until 9:45 a.m. tomorrow.

After the Senate convenes on tomorrow, after the prayer of the Chaplain and the recognition of the two leaders under the standing order, three Senators will be recognized for not more than 15 minutes each on special orders.

After that there will be a brief period for the transaction of routine morning business.

At 10:40 a.m. The Senate then will proceed to the consideration of House Joint Resolution 266, the tax bill. It is anticipated the entire day will be devoted to debate on that measure. I expect that most of the day will be consumed in opening statements and general debate. I do not anticipate there will be votes ordered on tomorrow.

In the event votes are ordered on tomorrow, at that time I will request—I do not now request, but I anticipate requesting—that the votes go over until the following day.

There is already an order for the Senate to convene at 10 a.m. on Thursday. It is my full expectation that I will ask the Senate to stay in session reasonably late on that evening since Thursday is the evening set aside for late sessions, if necessary. I would anticipate that the Senate might be in session as late as 10 or 11 p.m., or perhaps even later.

The Senate will then convene at 10 o'clock a.m. on Friday, according to the order previously entered, and will continue debate on the tax bill, if necessary, until a reasonable hour in the late afternoon on Friday. I do not expect a late session on Friday.

There is already an order entered for the Senate to convene at 10 a.m. on Saturday, if necessary, at which time we will resume consideration of the tax bill, if that proves necessary.

Similarly, there is an order for the Senate to convene at 12 noon on Monday next and to proceed with the consideration of the tax bill.

Mr. President, notwithstanding that orders have now been provided to accommodate extensive debate on the tax bill, it is my sincere hope, and it is my guarded belief and expectation, that we can complete action on the tax bill by the afternoon on Friday.

I urge Senators who have amendments they wish to offer to make those amendments known on this side to our cloakroom so we make an inventory of measures to be acted upon. During the day tomorrow, I will explore with the minority leader the possibility of a time agreement either on the bill as a whole or on amendments to the bill.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

There being no objection, the Senate, at 5:50 p.m., recessed until Wednesday, July 15, 1981, at 9:45 a.m.